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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 74-775

THE CITY OF NEW ORLEANS AND
HONORABLE MOON LANDRIEU,

Appellant,

v.

NANCY DUKES d/b/a LOUISIANA CONCESSIONS,

Appellee.

APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BRIEF ON BEHALF OF APPELLEE

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NANCY DUKES d/b/a LOUISIANA CONCESSIONS,

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STATEMENT OF THE CASE

The Appellee, Nancy Dukes, d/b/a Louisiana Concessions, filed a Civil Rights Action pursuant to 42 USC § 1983 & 1985 which was allotted to Honorable Jack M. Gordon, Presiding, United States District Court for the Eastern District of Louisiana. Relief was also sought under 28 USC § 2201 & 2202, whereby a declaratory

judgment was sought declaring Chapter 46, § 1[1] of the Code of the City of New Orleans, as amended, unconstitutional as applied to the Appellee. Appellee further alleged that this City Ordinance was "facially unconstitutional" because it "invidiously discriminated" against Appellee in favor of other individuals engaged in similar, if not the same activities. The original Complaint alleged that the City did not have any "compelling state interest" in the enforcement of such a law. Violations of the "due process" and "equal protection" clauses of the Fourteenth Amendment of the United States Constitution were alleged.

[1] Appellee has presented Chapter 46, § 1 in its present form in Appendix "R". Appellee's treatment of the Legislative history of this Ordinance spans a period from 1942 up to and through 1973. This so-called "Permit Law" has its roots in the Commission Council Series of Ordinances prior to 1954 which are cited herein at CCS # ____. In 1954, the City of New Orleans adopted a new form of government and began to pass Ordinances under the Mayor Council Series, referred to herein as MCS # ____. With the adoption of the MCS Ordinances, the City adopted the Code of the City of New Orleans whereby it designated that the "Permit Law" appear in certain Chapters of the City Code. At first under the MCS Ordinances, the "Permit Law" appeared in Chapter 14 of the City Code, and subsequently, as is the case as of the date of this Appeal, the "Permit Law" appears in Chapter 46 of the MCS Ordinances.

For purposes of simplification, the Ordinance under attack is referred to throughout this brief as Chapter 46, § 1 & 1.1, and references to its ancestor ordinances will be designated by CCS Ordinance # ____ or MCS Ordinance # ____, as is appropriate. All of the ancestor ordinances have been copied in the Appendicies herein and made a part hereof.

Subsequent to the filing of the original Complaint, Appellee was forced to amend same because the City, through its Council, amended Chapter 46, § 1 and Chapter 46, § 1.1 of the Code of the City of New Orleans.

The City filed a mere "general denial" to all of the allegations contained in the original Complaint.

Interrogatories were filed by Appellee which were eventually answered by the City after a great deal of effort on the part of Appellee.

The District Court indicated that this matter was to be handled on the basis of "stipulated facts" and corresponding Motions for Summary Judgment. Appellee filed her Motion for Summary Judgment supported by reference to the original Complaint, Affidavits of Appellee and another individual together with the Answers by the City to the Interrogatories. Appellee filed her statement of Material Facts. The City submitted it's Motion for Summary Judgment supported by a brief Statement of Material Facts.

The District Court denied Appellee's Motion for Summary Judgment, granting the City's Motion by Judgment of October 9, 1973, and thereby dismissing Appellee's Complaint.

Appeal was taken to the Fifth Circuit Court of Appeals which reversed the District Court after a thorough treatment of the applicable law and facts. See Appendix "B" of the Appellant's Jurisdictional Statement cited at *Dukes v. City of New Orleans*, 5 Cir. 1974, 501 F.2d. 706.

The City presented a Jurisdictional Statement as to this Court which rests upon the assumption that the Lucky Dog push carts are so "charming" and "nostalgic"

that the City was justified in denying Appellee her livelihood in one of the most lucrative commercial areas in the City of New Orleans where she has conducted her business activities for two years and not eight as the Lucky Dog push carts.

The City has presented in its "Brief On Behalf of Appellant" reasoning which tracks the arguments made in its Jurisdictional Statement in that it rests upon the pivotal arguments that because the Vieux Carre area of New Orlenas is so important to the economy of New Orleans, and because the Lucky Dog carts themselves have been photographed, and because people eat hot dogs in the French Quarter, the discriminatory scheme practised against Appellee is justified. The Appellant waxes more eloquently than before over the "charm and beauty" of the Viuex Carre area being preserved by the seedy hot dog carts, and points out proudly that the Lucky Dog carts have been noted in various and sundry culinary critiques of the City's food. See p. 72 of Appellant's Appendix - Vol. II. Of course, the Appellant-City completely ignores the fact that at the time all of these observations were made by the various and sundry critics as to the palatability of the hot dogs of the Lucky Dog carts, there was no comparison with other mobile carts such as were used by Appellee when she was allowed to earn a living in the Vieux Carre area with her mobile carts. The Appellant-City conveniently makes no mention of the fact that Nancy Dukes hasn't been on the streets of the Vieux Carre since October, 1973 when the District Court dismissed her complaint, and for some time before that. With the exception of the local newspaper account as appears at p. 66 of Appellant's Appendix, Vol. II, all of the other references to the

mention of the Lucky Dog carts were made in 1974 and 1975. Would this have been the case had Nancy Dukes been allowed to push her carts about the Vieux Carre and French Quarter?

I.

ARGUMENT OF FACT AND LAW

As indicated earlier, the Judgment of the Fifth Circuit Court of Appeals is not a proper subject, at this time, of an "appeal" under 28 USC § 1254 (2).

The Appellant has cited at pp. 7-12 of its Brief a number of cases, all of which it is submitted, do not deal with the issue of "finality" of Judgment which is crucial to this Court asserting jurisdiction by its interpretation of 28 USC § 1254(2).

The Appellant cites *City of Chicago v. Atchison, T. & S.F.RY.Co.*, 357 U.S. 489, 78 S.Ct. 1063(1958), as authority for this Court asserting jurisdiction. Appellee submits that the language as appears at p. 1067 of 78 S.Ct. in the *City of Chicago* Case, supra, cannot be reconciled with the Judgment presented to this Court for review, as is indicated as follows:

> "By its decision the Court of Appeals resolved all disputed questions between the parties. . . .; all that remains for the district court in remand was to formally enter judgment for the plaintiff. . . ."

Clearly, this is not our situation as appears from a reading of a portion of the Fifth Circuit Judgment as appears at p. 21a of Appellant's Jurisdictional Statement as follows:

> "Finding the arguments unconstitutional as applied, we reverse the summary judgment for the City entered below. Since the Trial Court did not find the ordinance's discrimination unconstitutional, it did not consider whether the "grandfather clause" was severable from the ordinance's simultaneous general preclusion of push cart hot dog vendors from the Quarter, that is whether the ordinance should be read as a total nullity, or whether it should be read to preclude the operation of all pushcart hot dog dealers in the Vieux Carre. We remand for the district court to resolve this question and enter judgment accordingly."

Appellee submits that the Fifth Circuit Court of Appeals left unresolved the issue of the severability of the "grandfather clause" and depending upon the District Court's ruling on this issue, will result in a decision which nullifies the entire "Permit Law" or simply a portion of same. Certainly, if the entire Ordinance is found unconstitutional, it is very likely that Appellant will appeal the decision of the District Court. On the other hand, if the District Court finds that this "grandfather clause" is severable from the Ordinance, then this apparently will precipitate an appeal by Appellant, and perhaps the Appellee. The treatment of all of the issues herein by the District Court if the Fifth Circuit Court of Appeals Judgment is sustained will necessarily color the issues to be presented by this Court.

Appellee submits that all of the issues to be resolved between the parties in controversy herein have not been dealt with by means of the Judgment of the Fifth Circuit Court of Appeals as appears in Appellant's Jurisdictional Statement at p. 10a - 21a. Appellees also submit that the other cases cited by Appellant-City are inapplicable to

our situation. We have a supposed appeal under 28 USC § 1254(2), and not under the old Judicial Code or under the purview of 28 USC 1257(2), the latter dealing with appeals from State court judgments, laws, or statutes litigated in the state courts. As appears at p. 10 of Appellant's Brief, the Appellant relies on *Cox Broadcasting Corporation v. Cohn* ____ US ____, 95 S.Ct. 1029 (1975), which dealt with 28 USC 1257(2) and *not* 28 USC 1254(2). The *Cox* Case, supra, dealt with an appeal through issues litigated in the State Court, never having run the gauntlet of the Federal judicial system. The Appellant cites a number of cases interpreting 28 USC 1257(2), which latter statute is certainly not in question as to the jurisdictional issues presented herein. Appellant goes further and cites such cases as *Gillespie v. U. S. Steel*, 379 US 148, 85 S.Ct. 308 (1964) which interpreted 28 USC 1291, and *not* 28 USC 1254(2), the latter under which Appellant seeks this Court to assert jurisdiction. 28 USC 1291 deals specifically with the propriety of appeals from U. S. District Courts to the United States Courts of Appeal, which is not the case herein.

The only case which Appellant cites which could have any possible relevance to an interpretation of 28 USC § 1254(2) is *Dutton v. Evans*, 400 US 74, 91 S.Ct. 210 (1970); and in that case there was an obvious "final determination" by the Fifth Circuit Court of Appeals relative to a habeas corpus petition filed in the federal system alleging violations of constitutional rights occurring in a state court proceeding. There was never any question as to the "finality" of that Judgment of the Fifth Circuit Court of Appeals which was reviewed by this court. Such is not the case herein as pointed out above.

Appellee submits the above in view of the fact, as stated previously, that jurisdictional statutes such as 28 USC § 1254(2) have been consistently construed ". . . .with precision and with fidelity for the terms by which Congress has expressed it's wishes. . . ." *Cheng Fan Kwok v. INS*, 392 US 206, 212, 88 S.Ct. 1970, 1974 (1968), cited at *Palmore v. United States*, 41 US 389, 93 S.Ct. 1670, 1675 (1973). This Court has always been prone to accord a rather strict construction of statutes authorizing appeals. *Palmore v. United States,* supra; *Fornaris v. Ridge Tool Co.*, 400 US 41, 42 n. 1, 91 S.Ct. 156, 157 (1970). Appellee naturally assumes that if the Court is going to take the attitude as expressed in the foregoing cases, and others, it will only entertain argument on 28 USC 1254(2), and not accept the language in cases interpreting other jurisdictional statutes as noted above, and as cited by Appellant.

Though this Court has liberally construed appeals on "jurisdictional questions", in view of the recent amendment to 28 USC § 1254, allowing these appeals to be construed as Writs of Certiorari (see *City of ElPaso v. Simmons*, 379 US 497, 85 S.Ct. 577 [1965]), this Court has still indicated a distaste for "piecemeal appellate review" before it. *Goldstein v. Cox*, 396 US 471, 90 S.Ct. 671 (1970).

Appellee submits that the import of the Judgment of the Fifth Circuit indicates the "tenative" and the incomplete" status of this matter at this time; and further, this is not a matter which can be or should be considered by this Court at this time. The weight and impact of the Fifth Circuit opinion depends on what the district court would do under a remand situation.

THERE IS NOTHING "CHARMING" OR "NOSTALGIC" ABOUT THE LUCKY DOG PUSH CARTS: AND CERTAINLY, THERE IS NO "COMPELLING STATE INTEREST" TO JUSTIFY THE "INVIDIOUS DISCRIMINATION, AS IS APPARENT FROM THE LEGISTION" PRACTICED AGAINST APPELLEE. THIS SCHEME OF DISCRIMINATION, AS IS APPARENT FROM THE LEGISLATIVE HISTORY OF THE "PERMIT LAW", HAD BUT ONE PURPOSE AND THAT WAS TO FAVOR THE ECONOMIC INTEREST OF LUCKY DOGS, INC., TO THE UNJUSTIFIED DETRIMENT OF APPELLEE: AND, THEREFORE CHAPTER 46, § 1 & 1.1 OF THE NEW ORLEANS CITY CODE IS UNCONSTITUTIONAL INSOFAR AS ITS "GRANDFATHER CLAUSE" IS CONCERNED.

ARGUMENT OF FACTS

As noted before, a consideration of the FACTS which precipitated the filing of the Civil Rights Complaint herein together with a development of the Legislative History of Chapter 46, § 1 & 1.1 are absolutely essential to this Court's consideration of this matter.

To Appellee's knowledge, the FACTS cited below have never been contested.

The FACTS are as follows:

A. Appellee Nancy Dukes *was* in the business of selling food, drinks, confections and novelties from "movable push carts", on the public streets, sidewalks and/or public and private places in downtown New Orleans. The Vieux Carre, otherwise called the "French

Quarter" and more recently referred to as the "Central Business District" was included in "downtown New Orleans" when Nancy Dukes was allowed to sell "hot dogs".

The prime source of Appellee's business *was* the Vieux Carre, particularly during the summer months of May through September, when average weekly sales totaled approximately $385.00. Appellee Nancy Dukes employed various salesmen on a commission-percentage basis. Until MCS Ordinance #4822 (see Appendix "M") and the introduction of the "grandfather clause", Appellee was able to obtain and did in fact possess *all* of the permits required by the City of New Orleans to vend "hot dogs" in the Vieux Carre area.

Prior to the introduction of the "grandfather clause" into the "Permit Law" at Chapter 46, § 1 & 1.1 of the City Code, the City Fathers had written a discriminatory scheme into the "Permit Law" by establishing a ban on the issuance of ALL PERMITS in the Vieux Carre with the exception of certain specially designated "exempt permits", one of which was that permit dealing with "hot dog" and "hot tamale" push carts. This "discriminatory scheme" of recognizing certain "exemptions" to a general ban on the issuance of ALL PERMITS in the Vieux Carre area was accomplished by an amendment to the "Permit Law" through MCS Ordinance #4744 passed in December of 1971. See Appendix "K". The Permit dealing with "hot dog" and "hot tomale" push carts which was exempt from the general ban appeared at Paragraph 5 of the "Permit Law" of Chapter 46, § 1 & 1.1.

Even with the passage of MCS Ordinance #4744 in December of 1971 which first established the general ban subject to certain exceptions, a reading of the various

MCS Ordinances amending the "Permit Law" indicates that from passage of MCS Ordinance #4439 in December of 1970 (see Appendix "I") up until the passage of MCS Ordinance #4822 in April of 1972 (see Appendix "M"), it was permissible to operate a "hot dog" push cart in the Vieux Carre area upon the obtaining of a permit described in Paragraph 5 of the "Permit Law".

However, despite the clear import of the law, on January 17, 1972, Appellee Nancy Dukes' employee was arrested for violating the "Permit Law" of Chapter 46, § 1 & 1.1 (see p. 86 of Appellant's Appendix, Vol. I - Memorandum In Support of Defendants' Motion For Summary Judgment). Apparently, it made little difference to Appellant that Appellee Dukes at the time of the arrest of her employee possessed a valid permit to vend "hot dogs" under the purview of Paragraph 5 of the "Permit Law".

It was this display of an obvious refusal by the Appellant-City to abide by its own laws together with a grave concern that the "exemptions" to the general ban on issuance of permits in the Vieux Carre which bespoke of a "discriminatory scheme" not justified by any "compelling state interest", that precipitated Appellee Dukes original Complaint. Appellee Nancy Dukes not only sold "hot dogs" from "movable push carts", but she sold ". . . .drinks, confections and novelties. . . ." from the same "movable push carts". The unwarranted arrest and subsequent amendment to the "Permit Law" made it clear to Appellee Nancy Dukes that the Appellant-City was not only going to prevent her from selling "hot dogs" from "movable push carts", but it was going to prevent her from selling anything else from her "movable push carts".

Also, Appellee Nancy Dukes was concerned about the "discriminatory scheme" established by the "grandfather clause" introduced into the "Permit Law" by MCS Ordinance 4822 in April 1972. (See Appendix "M") If there was ever a legitimate question as to whether Appellee Dukes could operate in the Vieux Carre with a permit issued under Paragraph 5 of the "Permit Law", which Appellee Dukes submits there was not, the introduction of the "grandfather clause" mooted this question. Appellee Nancy Dukes obviously qualified, even in the face of the "discriminatory scheme" established by the "exemptions" to the general permit ban in the Vieux Carre. However, under no circumstances could she ever qualify under the terms of the "grandfather clause" in that it required her presence continually for a period of eight years prior to January of 1972. Appellee Nancy Dukes had been in the Vieux Carre a mere two years.

Not only was Appellee Dukes faced with the reality that Appellant-City had no intention by abiding by its own legislative fiat (witness the arrest of January, 1972, when Appellee Dukes' activity was clearly condoned by MCS Ordinance #4744 for which she had obtained a permit), but even if she could force Appellant-City to obey its own laws, the City was determined to favor Lucky Dogs, Inc., and the sale of their "hot dogs" to the exclusion of all others (witness the "grandfather clause" of MCS Ordinance #4822 whose arbitrary eight year cut-off eliminated every "hot dog" peddler except Lucky Dogs, Inc.)

In view of the foregoing, it was no surprise to Appellee Dukes after she had filed her original Complaint on August 1, 1972, that the Appellant-City proceeded to

"cover its tracks" in again amending the "Permit Law" through MCS Ordinance #4957 passed in September of 1972. See Appendix "N". Obviously, the Appellant-City was attempting to "cover its tracks" with MCS Ordinance #4957. Appellant–City realized that had failed to delete the exemption of Paragraph 5 of the "Permit Law" which dealt with "hot dog" vendors when it passed MCS Ordinance 4822 in April, 1972. Between April, 1972 with the passage of MCS Ordinance #4822, in the face of the language of MCS Ordinance #4744 of September of 1971, the Appellant-City was faced with the potentially embarrassing situation of an obvious conflict between the "exemption" to "hot dog" push carts and the "grandfather clause" in their application. Had the law remained as it was, Appellee Dukes could have qualified under Paragraph 5 of the "Permit Law" insofar as the law gave this "exemption" to her as a "hot dog" vendor; however, at the same time, there would have been a conflict with the "grandfather clause" insofar as Appellee Dukes could have not qualified for same. Thus, MCS Ordinance 4957 was passed in September of 1972 specifically deleting as an "exemption" to the general ban of issuance of permits in the Vieux Carre, Paragraph 5 of the "Permit Law".

Appellee Dukes submits that it is the obvious intention of Appellant-City to completely ELIMINATE any activity on her part in one of the most lucrative economic areas of the City of New Orleans, i.e. the Vieux Carre. Appellee Dukes further submits that this is not a case of REGULATION.

This scheme of ELIMINATION by implementation of an "invidious discrimination" is justified by Appellant-City by the fact that the Vieux Carre area possesses a "unique charm and beauty", and that it is

essential to the preservation of this "unique charm and beauty" that the Lucky Dog push carts be maintained in a sole monopolistic status, aside from the quality of their hot dogs or the possibility that Appellee Dukes could provide not only a more attractive "push cart", but a better quality food product.

Implied in Appellant-City's argument is the suggestion that the above described "scheme of discrimination" is but an isolated incident to preserve the "charm and beauty" of the Vieux Carre by use of its "Permit Law" ELIMINATING all competition to Lucky Dogs, Inc. While the Legislative History of the "Permit Law" of Chapter 46, § 1 & 1.1 prior to the latter part of 1971 indicates a genuine REGULATORY scheme controlling various street occupations (see Appendices A-E; Appendices G-J) with the onset of Appellant-City's efforts to ELIMINATE Appellee Dukes "right to a livelihood" a parallel effort to ELIMINATE solicitations for money, subscriptions, advertising, gifts and magazines for "charitable, religious, educational and benevolent purposes" appears. It is no coincidence that at the same time Appellant-City was attempting to ELIMINATE Appellee Dukes' "right to earn a livelihood" by passage of the "exemptions" in the form of MCS Ordinance #4744, the City also passed a companion amending MCS Ordinance #4746 (see Appendix "L") in the same month of December of 1971 which sought to ELIMINATE solicitation for charity, religion, education and benevolence in the Vieux Carre. At a time when everyone was attempting to encourage charity, religion, education and benevolence, the City of New Orleans was bent on discouraging same, together with ELIMINATING

Appellee Dukes' "right to earn a living". Though not at issue in this Appeal before the Court, the writer of this Brief in another suit successfully attacked the "Permit Law" as it was amended by MCS Ordinance #4746 and had same declared unconstitutional insofar as it interferred with the legitimate "religious activities" of the Krishna Consciousness Movement. See *International Society for Krishna Consciousness, Inc., et al v. City of New Orleans*, D. C. E. D. La. (1972), 347 F. Supp. 945. The *Krishna* Case, supra, is not cited to confuse or distract this Court from the immediate issues before it, but only to concretely demonstrate the extremes that Appellant-City was willing to go in preserving the "charm and nostalgia" of the Vieux Carre. The example of the *Krishna* Case, supra, and the Legislative History of the "Permit Law" particularly around the latter part of 1971 through 1972 belie any suggestion that there is any "compelling state interest" which the Appellant-City can legitimately expound on to justify the complete ELIMINATION of Appellee Dukes as a business entrapreneur of "hot dogs" in the Vieux Carre area.

Subsequent to the introduction of the "grandfather clause" through MCS Ordinance # 4822 in April, 1972, Appellant-City pushed Appellee Dukes further away from the perimeters of the Vieux Carre by expanding the area in New Orleans over which the "grandfather clause" had sway. MCS Ordinance #5085 passed in February of 1973 and MCS Ordinance #5086 passed at the same time (see Appendices "O" & "P") designated that not only would Appellee Dukes be prevented from operating in the "charming and nostalgic" Vieux Carre,

but would be prohibited from operating in the entire Central Business District of New Orleans.

With the passage of MCS Ordinances #5085 & 5086 in February, 1973, the "grandfather clause" of the "Permit Law" held sway over an area twice the size of the "charming and nostalgic" Vieux Carre which had been the original target of this invidious "grandfather clause". Not to forget the "exceptions" previously granted in MCS Ordinance #4744 in December of 1971, the Appellant-City passed in February of 1973 together with the foregoing two Ordinances, MCS Ordinance #5087 which dealt with all of the "exceptions" to the general ban on issuance on permits in not only the Vieux Carre, but now the Central Business District. See Appendix "Q" for MCS Ordinance #5087.

Appellee Dukes submits that it is this last triumverate of Ordinances passed in February of 1973 (see Appendices "O", "P" & "Q") expanding the operation of the "exemptions" to the general permit ban and the operation of the "grandfather clause" over twice the geographic area originally targeted by these "exceptions" and the "grandfather clause", that renders as completely specious and outrageous the suggestion by Appellant-City that the "exemptions" to the "Permit Law" and the "grandfather clause" were intended to preserve the "charm and nostalgia" of the Vieux Carre area, and that the "charm and nostalgia" of the Vieux Carre area is somehow enhanced by the presence of Lucky Dog push carts which sit upon two "quaint" balloon tires supporting a steal tube fram upon which sits an inarticulately made tin shell which is supposed to represent a "hot dog". The Vieux Carre area of New Orleans can be easily discerned and separated from the Central Business District of New

Orleans. If the Lucky Dog carts somehow or other add to the "charm and nostalgia" of the Vieux Carre, the question is posed, "What do the Lucky Dog carts do for the 'charm and nostalgia' of the concrete and asphalt of the business hub of New Orleans?" How does the presence of Lucky Dog carts in the business section of New Orleans add to the "charm and nostalgia" of a completely separate area of the Central Business District, i.e. the Vieux Carre? For that matter how does the presence of Lucky Dog push carts in the business area proper of New Orleans which is encompassed in the Central Business District by definition of the foregoing Ordinances add anything to the Business District proper except to provide a monopolized outlet for the sale of hot dogs on the asphalt and concrete pavements and streets of the business area of New Orleans, aside from the Vieux Carre? By definition of the triumverate of MCS Ordinances (see Appendices "O", "P" & "Q") the "Permit Law" makes no distinction as to the Vieux Carre area and the Central Business District. As noted above, initially the "grandfather clause" and "exemptions" to the general ban on the issuance of permits was directed to the area known as the Vieux Carre. The last triumverate of MCS Ordinances noted above expanded the geographical area over which the "exemptions" to the general permit ban and the "grandfather clause" were applicable. Now Appellant-City would have this Court ignore the import of its written law for which Appellant-City has been shown to have no respect in the past, and ask this Court to believe that the only reason for the "grandfather clause" and the "exemptions" to the general ban on the issuance of permits was to preserve

the "charm and nostalgia" of the Vieux Carre. Nothing is said about the effect that these Lucky Dog push carts would have or could have upon the "charm and nostalgia" of the concrete and asphalt of the business district of New Orleans. Obviously, the Legislative History of all of the foregoing Ordinances, themselves, are the best evidence of the Legislative chicanery practiced by Appellant-City. Appellee Dukes submits that Appellant-City is not serious about any of the arguments presented in its Brief, particularly as it seeks to rationalize this "invidious discrimination" by reference to the "charming and nostalgic" effect the Lucky Dog push carts have upon the Vieux Carre. Appellee Dukes submits that the Appellant-City's failure to deal in any way with the "charming and nostalgic" effects of the Lucky Dog push carts upon the business area proper of the City of New Orleans in order to justify the "exemptions" and "grandfather clause", allows this Court to completely ignore all of their arguments.

Before going on to the treatment of the applicable law, Appellee Dukes would treat with Appellant-City's new found post cards, magazine covers and culinary critiques. Obviously, this was inspired by Appellee Dukes effort to show this Court by photographic representation in her Motion To Dismiss and Brief In Support Thereof of the exact nature of these Lucky Dog push carts. Beginning at p. 64 of Appellant's Appendix, Vol. II, and following, there is presented what purports to be two post cards of the French Quarter, two photographs from newspapers depicting the Lucky Dog carts, a culinary critique accompanying one of those newspaper photographs, the cover of the

New Orleans magazine, an account of the Dukes decision before the Fifth Circuit Court of Appeal appearing in a local newspaper, a culinary critique appearing in another magazine of March, 1975, together with language from one of the local papers indicating that someone in the movie business noticed the Lucky Dog carts. It is glaringly apparent to Appellee Dukes that with the exception of a photograph which, by accident, depicts a Lucky Dog push cart as of April 7, 1973, there is not a scintilla of evidence to show that there was such attention paid to these Lucky Dog carts prior to October of 1973, the latter date being that of the dismissal of Appellee Dukes suit. It is no wonder to Appellee Dukes that the Lucky Dog carts are now supposedly eulogized and commented on insofar as they are the *only* "hot dog" push carts in the quarter. What else would one expect? Appellee Dukes would point out that none of this evidence was presented before Judge Gordon in making his decision as is obvious from its import. It didn't exist until after the monopoly of Lucky Dogs, Inc. was recognized not only in the Vieux Carre, but all over the business district for the City of New Orleans.

Finally, Appellee Dukes would point out to this Court that as appears at Appellant's Appendix Vol. II at p. 31 - 63, much is made by Appellant-City over the unique aspects of the Vieux Carre. This is "well and good". However, Appellee Dukes would point out that the "exemptions" to the general permit ban of the "Permit Law" and the "grandfather clause" of same cover an area which is twice the size of the Vieux Carre. Appellee Dukes suggests that Appellant-City produce any such self-serving propaganda for the

business district proper of the City of New Orleans over which the "exemption" and "grandfather clause" have absolute sway as law.

ARGUMENT OF FACT AND LAW

The Fifth Circuit Court of Appeals obviously relied heavily upon this Court's treatment of another "invidiously discriminating" law as appears in *Morey v. Doud*, 354 US 457, 77 S.Ct. 1344 (1957). Appellee Dukes submits that the explicit statements of *Morey*, supra, are controlling. In *Morey*, supra, as here, there was a "Permit Law", *Morey* dealing with the sale of money orders in the State of Illinois, and our instant case dealing with the sale of "hot dogs". Appellee Dukes is concerned about the "statutory discriminations" contained in the City of New Orleans' "Permit Law" as was this Court in *Morey*. Appellee Dukes submits that the language of this Court in *Morey* as appears at p. 1349 of 77 S.Ct. is controlling, and is cited as follows:

> "In determining the constitutionality of the Acts' application to Appellees in the light of its exception of American Express Money Orders wer start with the established proposition that the 'prohibition of the equal protection clause goes no further than the invidious discrimination'. *Williamson v. Lee Optical of Oklahoma* 348 US 483, 489, 75 S.Ct. 461, 465, 99 Law.Ed. 563. The rules for testing a discrimination have been summarized as follows:
>
> '1. The equal protection clause of the Fourteenth Amendment does not take from the

> State the power to classify in the adoption of police laws, but admits of the exercise of a wide scope of discretion in that regards, and avoids what is done only when it is without any reasonable basis and therefore it is purely arbitrary.
>
> '2. A Classification having some reasonable basis does not offend against that clause merely because it is not made with mathematical nicety or because in practice it results in some inequality.
>
> '3. When the classification in such law is called in question, if any state of facts reasonably can be conceived would sustain it, the existance of that state of facts at the time that the law was enacted must be assumed.
>
> '4. One who assails the classification of such a law must carry the burden of showing that it does not rest upon any rational basis, but it is essentially arbitrary.'
>
> "*Lindsley v. Natural Carbonics Gas Co.*, 220 US 61, 78-79, 31 S.Ct. 337, 340, 55 Law. Ed. 369."

Appellee Dukes submits that Appellant's treatment of the constitutional issues in its Biref can best be described as a recitation of language of this Court without any indication or treatment of said language to the relevant issues herein. Appellant-City essentially provides no contextual reliability in its "Quote and Quip" treatment of the language of this Court. Appellee Dukes submits that the above cited language of *Morey* together with subsequent language of this Court to be noted in its entire context is a more appropriate treatment in arguing as to the "standard" to be applied to the "Permit Law" of the New Orleans City Code as presented herein.

The next significant statement as to the "test" or "standards" to be applied to any potentially "discriminatory laws" appears in *McGowan v. State of Maryland*, 366 US 420, 81 S.Ct. 1101, (1961). In *McGowan*, the so-called "Sunday Laws" were under attack. Though this Court affirmed the validity of these "Sunday Laws", it again dealt with the "standard" to be applied to potentially "discriminatory laws" as appears at p. 1105 and 1106 at 81 S.Ct. as follows:

> "The standards under which this proposition is to be evaluated have been set forth many times by this Court. Although no precise formula has been developed, the Court has held that the Fourteenth Amendment permits the states a wide scope of discretion in enacting laws which affect some groups of citizens differently than others. The Constitutional safeguard is offended only if the classification rests on grounds solely irrelevant to the achievement of the State's objective. State legislatures are assumed to have acted within that Constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. See *Kotch v. Board of River Port Pilots Com.'rs*, 330 US 552, 67 S.Ct.910, 91 Law Ed. 1093; *Metropolitan Casualty Ins. Co. of New York v. Brownell*, 294 US 580, 55 S.Ct. 538, 78 Law.Ed. 1070; *Lindsley v. Natural Carbonic Gas Co.*, ...; Atchison, T & S.F. R. Co. v. Mathews, 174 US 96, 19 S.Ct. 609, 43 Law.Ed.909."

At pp. 1105 and 1106 of 81 S.Ct., this Court went on to find that the legislature could reasonably find that the Sunday sale of exempted commodities was necessary for either the health of the community or the

enhancement of the recreational atmosphere of the day as it concerned citizens who enjoyed certain recreational facilities. Though the Court found that the "record" was barren of any indication that the foregoing "reasonable basis" did not exist, at p. 1106 of 81 S.Ct., this Court in *McGowan* went on to cite certain language which is significant to our consideration, as follows:

> "Secondly, Appellants contend that the statutory arrangement which permits only certain Anne Arundel County retailers to sell merchandise essential to, or customarily sold at, or incidental to, the operation of bathing beaches, amusement parks, et cetra, is contrary to the 'Equal protection' laws because it discriminates unreasonably against retailers in other Maryland counties. But we have held that the Equal Protection Clause relates to equality between persons as such, rather than between areas and that territorial uniformity is not a constitutional pre-requisite. . . . ."

The foregoing language of *McGowan* is certainly important to our consideration insofar as we had a "person", i.e. Appellee Dukes, being discriminated against by operation of "exemptions" and the "grandfather clause" of the City "Permit Law", all of which operates in the *same* "territorial limits" of the central business district. Appellee Dukes again points out that prior to the passage of the "grandfather clause" in April of 1972, she had operated her "hot dog" push carts in the Vieux Carre area without incident with the exception of the unlawful arrest of her employee in January of 1972 in the face of Ordinances which clearly allowed her to operate with a permit. The fact that now Appellee Dukes finds herself "outside" the

territorial limits of the Central Business District which includes the Vieux Carre, is of no moment. At the time that this "discriminatory scheme" was established, Appellee Dukes was a "person" within the same "territorial and geographical limits" occupied by Lucky Dogs, Inc.

Therefore, the question becomes one of establishing the "differences" which must be "real". Appellee Dukes notes the case of *Cipriano v. City of Houma*, 395 US 701, 89 S.Ct. 1897 (1969); lower court decision at 286 F.Supp. 823 (D.C. E.D.La. 1968). Though the three-judge panel's decision ruling that the State of Louisiana could set its own standards as to how its people should determine the desirability of issuing public utility revenue bonds was reversed by this Court, this Court's treatment of *Cipriano* in its decision indicates to Appellee Dukes that the language of *Cipriano* in the lower court was given an "expanded import", and is certainly pertinent to our consideration insofar as it sets forth a standard which was recognized by this Court in its reversal, as appears at p. 825 of 286 F.Supp. as follows:

> ". . . .The Equal Protection Clause does not command the state legislatures to make their laws conform to hydraulic principles by seeking the common-and lowest-level. 'Equal protection does not require identity of treatment. It only requires that classification rest on real and not feined differences, that the distinction have some relavance to the purpose for which the classification is made, and that the different treatments be not so disparate, relative to the difference in classification, as to be wholly arbitrary.' *Walters v. City of St. Louis*, 1954 347 US 231, 237, 74 S.Ct. 505,

> 509, 98 Law.Ed. 660. In considering whether a classification rests on real differences, we must take into account the nature and relative importance of the subject with respect to which equality is asserted. . . ."

Again at p. 826 of 286 F.Supp. Judge Rubin, speaking for the three-judge panel noted language which defined those "tests" or "standards" to be applied to any potentially "Discriminatory law" as follows:

> "Mere classification does not of itself deprive a group of equal protection.[13] Older decisions taught us that legislation that differentiates between two classes is unconstitutional only if the discrimination is irrational arbitrary or capricious.[14] Only a few weeks ago the Supreme Court indicated that the principles are still vital. In holding that the one man, one vote principal of *Reynolds v. Sims* was applicable to the selection of Texas County Commissioners it said, 'The Equal Protection Clause does not, of course, require that the State never distinguish between citizens, but only that the distinctions that are made not be arbitrary or invidious.' . . . .
>
> ". . . .Whether the distinction is invidious depends on the exact factual situation presented."

Appellee Dukes submits that Judge Rubin, as indicated in this Court's treatment of *Cipriano*, ignored the very crucial "compelling state interest" requirements set out in *Morey* and *McGowan*. This appears to be the case by this Court's language in *Cipriano* at p. 1899 of 89 S.Ct., which is cited as follows:

> "As we noted in *Kramer* supra, if a challanged state statute grants the right to vote in a limited purpose election to some otherwise qualified voters

and denies it to others,[4] 'the court must determine whether the exclusions are necessary to promote a compelling state interest'. *Kramer v. Union Free School District No. 15*, Supra, at 627, 89 S.Ct. at 1890. Moreover, no less showing that the exclusions are necessary to promote a compelling state interest is required merely because of 'the question scheduled for the election need not have been submitted to the voters'. Id. at 629, 89 S.Ct. at 1890, M. 11"

Further this Court in *Cipriano* as appears at p. 1900 of 89 S.Ct. noted as to "compelling state interests", as follows:

". . . .Property owners, like non-property owners, use the utilities and pay the rates; however the impact of the revenue bond issued on them is unconnected to their status as property owners. Indeed, the benefits and burdens of the bond issue fall indiscriminately on property owners and non-property owners alike.

"Moreover, the profits of the utility systems' operations are paid into the general fund of the City and are used to finance city services that otherwise would be supported by taxes. Of course, property tax payers may be concerned with expanding and improving the City's utility operation; such improvements could produce revenues which eventually would reduce the burden on the property tax that support city services. On the other hand, non-property tax payers may feel that their interest as rate payers indicate that no further expansion of utility debt obligations should be made. Of course, these differences of opinion cannot justify excluding either group from the bond election, when, as in this case, both are substantially affected by the utility operation. For,

as we noted in *Carrington v. Rash* . . . .(citations). . . .'

'[f]encing out' from the franchise a sector of a population because of the way they may vote is constitutionally impermissable.'

"The challanged statute contains a classification which excludes otherwise qualified voters who are substantially affected and directly interested in the matter voted upon as are those who are permitted to vote. When, as in this case, the state's sole justification for the statute is that the classification provides a 'rational basis' for limiting the franchise to those voters with a 'special interest', the statute clearly does not meet the exacting standard of precision we require of statutes which selectively distribute the franchise. *Kramer v. Union Free School District No. 15*, supra, at 632, 89 S.Ct. at 1892. We therefore reverse the judgment of the district court."

Though *Cipriano* deals with the "elective franchise", Appellee Dukes submits that this decision indicated a trend showing greater concern by this Court for those "compelling state interests" than is initially indicated in *Morey* and *McGowan*. Further, Appellee Dukes submits that the language of *Cipriano* insofar as the deals with a "discriminatory scheme" is equally applicable to our situation where Appellee's "right to earn a livelihood" is, for all intents and purposes, ELIMINATED completely.

Cipriano was obviously a companion case to *Kramer v. Union Free School District No. 15*, 395 US 621, 89 S.Ct. 1886 (1969). Appellee Dukes submits that the language of *Kramer* goes further in spelling out those "compelling state interests" which are necessarily

required to be shown by Appellant-City when any "discriminatory scheme" is attacked as herein. At p. 1889 of 89 S.Ct. Justice Warren notes the need for "compelling state interest" in the "test" as follows:

> " 'In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, the interest which the State claims to be protecting, and the interest of those who are disadvantaged by the classification.' . . . .(citations) . . . .And, in this case, we must give the statute a close and exacting examination."

Appellee Dukes submits that *Kramer* makes the Legislative History treatment given in this Brief most important. The treatment of the Legislative History, which was completely ignored by Appellant, is perhaps the *only* method of determining those "interests" which City of New Orleans claims to be protecting. Of course, as pointed our previously, the Appellant-City falls very short in this area both as to Legislative History and the attempt to present self-serving propaganda which could not possibly have been available at the trial of this matter before the District Court.

Appellee Dukes submits that the cases of *Morey, McGowan & Cipriano* all lead to the conclusion so succinctly pointed out in *Kramer*, that the "facts and circumstances behind the law" must be gone into. Again, Appellee Dukes points out that Appellant-City falls far short of providing any of the "facts and circumstances behind the law". Appellant-City completely ignores the very import and clear language of its own laws, all as noted above.

More recently, the need of Appellant-City to show a "compelling state interest" was reiterated in *Weber v. Aetna Casualty & Surety Co.*, 406 US 164 92 S.Ct. 1400 (1972). Also, this Court indicated in *Weber* that it would not be satisfied with the simple "naming" of a "legitimate state interest" and required that there be some showing of how the statute itself "promotes" that interest, as indicated at p. 1405 of 92 S.Ct. in *Weber*, which is cited as follows:

> "The Louisiana Supreme Court emphasized strongly the state's interest in protecting 'legitimate family relationships' . . . .(citations). . . ., and the regulation and protection of the family unit have indeed been a venerable state concern. We do not question the importance of the interest; what we do question is how the challanged statute will promote it. As was said in *Glona*:
>
> > '[W]e see no possible rational basis . . . . for assuming that if the natural mother is allowed recovery for the wrongful death of an illegitimate child, the cause of illegitimacy will be served. It will, indeed, be far fetched to assume that women have illegitimate children so that they can be compensated in damages for their death.' . . . .(citations). . . .'
>
> "Nor can it be thought here that persons who shun illicit relations because of the offspring may not one day reap the benefits of workmen's Compensation."

Applicant-City has shown no such "compelling state interest" to justify the complete ELIMINATION of Appellee Dukes in the Vieux Carre area, much less in the Central Business District. The only "compelling state interest" it can muster is a time worn report on the significance of the Vieux Carre, of course, not mentioning the Central Business District, together with

numerous self-serving propaganda as to the quaintness of the Lucky Dogs, Inc. push carts at times when the Lucky Dog, Inc. push carts were obviously the only ones in the Vieux Carre area and Central Business District. The reasoning presented by Appellant-City is indeed specious. Even if Appellee Dukes would concede that somehow the "charm and nostalgia" of the Vieux Carre area is enhanced by the greasy Lucky Dog push carts, their could be no such concession as to the effect of the Lucky Dog push carts on the "charm and nostalgia" of concrete, steel and asphalt of the Business District proper.

Appellee-Dukes submits that it has been a very long time since this Court considered anything of the nature of the "grandfather clause" and "exemptions" presented through the facts of this case. However, Appellee Dukes submits that some light may be thrown upon this Court's consideration by a reading of a Florida case, *Eslin v. Collins*, ____ Fla. ____, 108 So.2d. 889 (1959). There, the Florida State Supreme Court held as unconstitutional a "grandfather clause" which operated exactly as the "grandfather clause" of the "Permit Law" of Chapter 46, §1 & 1.1 of the New Orleans City Code. In so declaring, the Florida Supreme Court cited those principles enunciated in *Morey, McGowan, Cipriano,* and *Weber*, as appears at p. 890 of 108 So.2d., as follows:

> ". . . .Ordinarily, as applied to the regulation of a profession, a Grandfather Clause exempts from the examination pre-requisite to obtaining a license, those who are already bona fide engaged in the practice of a profession being regulated for the first time. See *State ex rel Garrison v. Reeve*, 104

> Fla. 196, 139 So. 817, 79 A.L.R. 1119; *Doller v. Reid*, 1948, 308 Ky. 348 214 S.W.2d 584; *Watson v. State of Maryland*, 1910, 218 U.S. 173, 30 S.Ct. 644, 54 Law.Ed. 987; *Bent v. State of West Virginia*, 1889, 129 US 114, 9 S.Ct. 231, 32 Law. Ed. 623. 'Such exception proceeds upon the theory that those who have acceptably followed the profession in the community for a period of years may be assumed to have the qualifications which others are required to manafest as a result of an examination before a board of medical experts.' . . . ."

The Florida State Supreme Court went on to note at p. 891 of 108 S.2d in *Eslin* that the law treated those professionals who had been licensed two years differently and unequally from those that had been licensed for at least fifteen years as of the cut-off date cited therein. Further, the Florida Supreme Court went on to note that in each case, the professionals regulated, whether they had been practicing and licensed for two years or fifteen years, had received approximately the same type of training. This is noted at p. 891 of 108 So.2d in *Eslin* as follows:

> "We can conceive of no reasonable basis for the classification here attempted to be made. Both classes of naturopaths were required to take the same training and pass the examination required as a condition of obtaining a license to practice naturopathy."

And further, at pages 891 and 892 of 108 So.2d., the Florida Supreme Court in *Eslin* went on to treat further with that "grandfather clause" and its reasoning is particularly appropriate to our situation and speaks to our immediate problem, as is cited as follows:

"The purpose of the purported 'grandfather clause' of the Act was to save the right of naturopaths licensed for more than two years to continue in the practice. Assuming without deciding that the legislature could validly create such a closed class, we can conceive of no reasonable basis for the attempt here made to grant special privileges to a limited group, itself a closed class, within the larger closed class. Accordingly, it must be held that the legislative classification is abritrary and unreasonable and thus a denial to appellant of the equal protection of the law. See *Riley v. Lawson*, 106 Fla. 521, 143 So.2d 619; *State ex rel Voris v. Knott*, 135 Fla. 206, 184 So. 752; *Morey v. Doud*, 1957, 354 US 457, 469, 77 S.Ct. 1344, 1 Law.Ed.2d 1485; 11 AnJur., Constitutional Law, § 285 p. 1046."

The Florida Supreme Court recognized that there was absolutely no difference between the "two year" and "fifteen year" naturopath. In our case, there certainly is no difference between the Lucky Dog "hot dog vendors" and Appellee Dukes' "hot dog vendors". There is nothing so peculiarly "qualifying" about "spreading the mustard" for eight years as opposed to a mere two years that somehow or other qualifies the "invidious discrimination" practiced by Appellant-City's "grandfather clause".

Another Florida Case, *Mid-State Hauling Co. v. Mason*, ___Fla.___177 So.2d 206 (1965) is submitted to this Court's attention. The language as appears in *Mid-State Hauling* at p. 210 of 177 So.2d, is appropriate to our consideration, as follows:

"We cannot emphasize too greatly the fact we are dealing essentially with the so-called 'grandfather clauses'. The whole purpose of a Grandfather

Clause in a licensing statute is to exempt from statutory regulation, impose for the *first time* those persons already in the field who have followed the trade and may be presumed to possess necessary qualifications. In the case of *Commonwealth Air Transport v. Stuart*, 303 Ky. 69, 196 S.W.2d 866, at p. 869, the Kentucky Court said:

'In initial regulatory statutes they [grandfather clauses] satisfy "the dictates of fairness by affording sanction to enterprises heretofore established". *U. S. v. Maher*, 307 US 148, 59 S.Ct. 768, 771, 83 Law.Ed. 1162. They [grandfather clauses] serve to avoid hardships which would result from forcing a carrier to justify his existing business in terms of public convenience, and recognizes vested such rights as had grown up before the enactment of the statute.' "

The Florida Supreme Court in *Mid-State* went on to cite *Eslin* as its authority.

Appellee Dukes submits that this is indeed an instance of "first time" statutory regulation. Appellee Dukes was present and operating in the Vieux Carre area at the time of the passage of the "grandfather clause" via MCS Ordinance #4822 in April of 1972. While Appellee Dukes could understand an Ordinance which did not allow the issuance of any further "hot dog" vendor permits in the Vieux Carre, and later the Central Business District, it is absolutely irrational to her to suggest that Appellant-City could arbitrarily pick eight years as a cut-off date, and thereby completely excluding not only Appellee Dukes but all other "hot dog" vendors in the Vieux Carre, and later the Central Business District.

There are no "necessary qualifications" gained by individuals, whether they work for eight years or one year at selling hot dogs which could possibly be pointed out as a "real difference" upon which Appellant-City could justify this "discriminatory scheme" practice against Appellee Dukes. THERE ARE NO REAL DIFFERENCES UPON WHICH Appellant-City could have based its "exemptions" to the general permit ban and its "grandfather clause" to justify same as to "hot dog" vendors.

Finally, Appellee Dukes would treat with the right on her part to "earn a living", a right which is certainly protected by the United States Constitution, and is among those "rights and privileges" contained in same.

The "Right To Earn A Living" is so deeply rooted in our political and economic history that reference to it can be readily found from the most ancient jurisprudence. In discussing the "Privileges and Immunities" to which all citizens are entitled, Circuit Judge Washington in *Corfield v. Coryell*, C.C.E.D. La. 1823, 6 Fed. Cas. 546, indicated at pp. 551 and 552 as follows:

> The next question is, whether this act infringes that section of the Constitution which declares that the 'citizens of each state shall be entitled to all of the privileges and immunities of citizens in the several states?' The inquiry is, What are the privileges and immunities of citizens in the several states? We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union, from the time of their

becoming free, independant and sovereign. What these fundamental principals are, it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the government, *the enjoyment of life and liberty with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety*; subject, nevertheless, to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one state to pass through, or to reside in any other state, for purposes of trade, agriculture, professional pursuits, or otherwise, to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the state; *to have, hold and dispose of property, either real or personal*; and the exemption from higher taxes or impositions that are paid by the other citizens of the state; may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added, the elected franchise, as regulated and established by the laws of the Constitution of the state in which it is to be exercised." (own emphasis)

From the above, it is apparent that the Right To Earn A Livelihood is certainly not a "right" to be ignored. Subject to reasonable regulation, it apparently enjoys the same posture and respect as the "elective franchise".

Without citing the language, this Right To Earn A Livelihood has been recognized in such landmark cases as *Yick Wo v. Hopkins*, 117 US 566, 6 S.Ct. 1064 (1886). The serious treatment by this Court in 1886 in

Yick Wo of a man's right to earn a living certainly established this basic and fundamental right as one of the foremost privileges in our American society.

The same reasoning of *Yick Wo* has been carried forward in such cases as *New State Ice Co. v. Liedmann*, 285 US 352, 52 S.Ct. 371 (1932).

More recently, the protective arm of this Court was again extended to shelter one's right to earn a living in the case of *Shapiro v. Thompson*, 394 US 618, 89 S.Ct. 1322 (1969). It was in *Shapiro* that *Corfield* was cited with approval.

CONCLUSION

The City of New Orlenas through Chapter 46, §1 & 1.1 of the Code of The City of New Orleans seeks to ELIMINATE the legitimate business activities of Appellee. It does not seek merely to REGULATE. This attempted without any "compelling state interest" other than as pointed out in Appellant's Brief and in this Brief of Appellee Dukes.

Appellee Dukes concedes that there is a "compelling interest" on the part of the City of New Orleans to protect its "economic welfare", and that of all of its citizens. However, there can be no conceivable "compelling state interest" to justify the favoring of one "hot dog peddler", i. e. Lucky Dog, Inc., in the Vieux Carre and Central Business District, while at the same time excluding Appellee Dukes from peddling her hot dogs as she had done in the same geographical area as Lucky Dogs, Inc. up until the passage of the "grandfather clause", not to forget the "exemptions".

Both Appellee Dukes and Lucky Dogs, Inc., are "hot dog peddlers", and neither has any more facility than the other to deliver their hot dogs to the waiting, anxious and hungry hoardes of "tourists and citizens" who want to "observe the charm and beauty that is the Vieux Carre" (also the Central Business District), while stuffing what is probably a second-grade hot dog dripping with chili, mustard and onions down their esophagi, all of which, we can concede, promotes the "economic welfare" of the City of New Orleans.

Respectfully submitted,

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APPENDIX "A"

15510.

Mayoralty of New Orleans,
City Hall, Feb. 20, 1942.
Calendar No. 16,250.

NO. 15,510 COMMISSION COUNCIL SERIES

AN ORDINANCE regulating and fixing the cost of permits issued for the purpose of operating in and on public streets and other public places, legal coin-operated machines, to vendors of merchandise, solicitors, canvassers, etc., for the holding of fish fries, parades; circuses and the holding of meetings, rallies and public entertainments, etc., and repealing Ordinances Nos. 14,294-14,302, 14,434 and 15,347 C. C. S. and any and all ordinances and parts of ordinances in conflict herewith.

WHEREAS, in order to safeguard public safety, health, comfort and the general welfare of the people of New Orleans, it is necessary that proper supervision and regulations be imposed on all persons, firms or corporations, who in any way desire to use the public streets, sidewalks, or other public places, or private or public halls for the conduct of any business or calling, or the holding of any meetings or public entertainment; therefore

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SECTION 1. BE IT ORDAINED BY THE COMMISSION COUNCIL OF THE CITY OF NEW ORLEANS, That from and after the passage of this ordinance, every person, firm or corporation, who shall desire to use the public streets, sidewalks or public places for the conduct of any business or calling, or to hold meetings, or rallies, or public entertainments in private or public halls, shall first apply to and obtain from the Mayor of the City of New Orleans a permit according to the following schedule, which permit shall in each instance state the occasion for which it is issued and the length of time for which said permit shall be operated, said permit to be paid for at the time of issuance, by the applicant according to the following schedule:

A.—To sell Novelties, etc., on City streets during Carnival ..... [illegible]
For definite Canal Street location on Mardi Gras, an extra $1.00
For One-half year 5.50
For One Year 12.50

B.—To sell hot tamales, on foot or from push carts in city streets or public places, per year 10.00

C.—To sell candies, nuts and confections, on foot or from push carts in city streets or public places, per year 10.00

D.—To sell hot waffles on city streets, per year ..	10.00
E.—To peddle cooked food, cakes, pies, etc., per year	5.00
F.—To sell fruits and vegetables on foot or from push carts in city streets or public places, cannot sell in market area, per year	10.00
G.—To sell fruits and vegetables from animal-drawn or motor-propelled vehicles, cannot sell in market area, per year	25.00
H.—Fish frics, or other related parties, etc., per day	0.50
I.—To sell home-manufactured articles or home grown products, on foot	5.00
J.—To sell ice cream, ice cream bars, and related confections on foot or from push cars in city streets or public places, per year	5.00
K.—To sell razor blades, toilet articles, etc., in city streets or public places, per year	5.00
L.—Demonstrations of food products or devices in public places or markets, etc.	25.00
M.—To distribute samples, solicit, canvass, etc., on city streets or from house to house	15.00

N.—To follow carnival parade, maskers on trucks, etc., per truck, per day	1.00
O.—To advertise with music, on truck or on foot, or in costume, or for any other advertising stunt, per year	60.00
Per month	7.50
P.—To take photographs in city streets or other public places, per year	5.00
Q.—To operate hand organ in city streets per year	5.00
R.—To drive cattle through city streets from dairy to pasture, per year ..	1.00
S.—To move explosives through city streets, per day	1.00
T.—To conduct sale of goods, wares or merchandise in insurance, bankruptcy, mortgage, insolvent, assignees', receivers', trustees' removal or closing out sale, or sale of goods, ware and merchandise damaged by fire or otherwise, in accordance with Act 225 of 1932, per sale	50.00
U.—To operate automatic nickel vending machines, selling candy, cigarettes, soft drinks, etc., in streets or public places, per machine, per year	5.00
For penny vending machines, per machine, per year	2.50

V.—Weighing devices, etc., on sidewalks or in public places, for nickel machine, per machine, per year $5.00
For penny machines, per machine, per year 2.50

W.—To operate coin-operated electric piano, phonograph or other mechanical musical device in restaurant, soft drink stands, etc., per machine, per year 10.00

X.—To operate mechanical amusement devices of any kind or character, except iron claw machines, classified as games of skill, for nickel machines, per year 50.00
For penny machines, per machine, per year 10.00

Y.—To operate iron claw machines, per machine, per

registered or accepted
month .....

A-1—Circus permits, [illegible] sions, rides, etc., in addition to license .....

B-1—To operate games of sport or skill where admission is charged or fee collected in any manner, including putt-putt games, shooting galleries, archery, etc., per year 50.00

C-1—To conduct sport events where admission is charged or fee collected in any manner, and where annual license is not paid to the City of New Orleans:
Admission not more than 25c per event .. 2.50
Admission not more than 75c per event . 5.00
Admission more than 75c per event 10.00

D-1—For amateur and professional prize fights or boxing and wrestling contests:
Admission not more than 25c per event .. 2.50
Admission not more than 75c per event .. 5.00
Admission more than 75c per event 10.00

E-1—For entertainments, other than fairs given by the pastors of a church for the church benefit, dance reviews, plays, festivals, bazaars, etc., with or without music, where admission is charged, or where no admission is charged but subscription fees or contributions are collected:
Admission not more than 25c per event .. 2.50
Admission not more than 75c per event 5.00
Admission more than 75c per event 10.00

F-1—For Philharmonic or Symphonic recitals, operas or other entertainment of like nature, where admission is charged or fee or subscription collected in any manner:
Admission not more than 25c per event .. 2.50
Admission not more than 75c per event .. 5.00
Admission more than 75c per event 10.00

G-1—For orchestras in restaurants or business establishments for purposes of entertainment or dancing, where no admission is charged, per year 25.00
Per night 1.00

H-1—For music other than orchestras, for entertainment purposes or dancing where no admission is charged or fee exacted, per year 15.00

I-1—For music for entertertainment purposes or dancing where admission is charged or fee exacted in any manner, including jitney dances, etc., per year 50.00

J-1—For dancing where admission is charged:
Admission not more than 25c per event .. 2.50

Admission not more than 75c per event .. 5.00
Admission more than 75c per event: 10.00

K-1—Dances in private residences or private dances in public halls where no admission is charged, per night 0.50

SECTION 2. BE IT FURTHER ORDAINED, ETC., That in order to regulate peddling in the City of New Orleans, every peddler shall secure from the Mayor of the City of New Orleans a permit for peddling and said permit for peddling shall be issued only after the following information shall have been obtained from the peddler, viz:

A.—Full name and address of peddler.

B.—Kind and character of merchandise, goods, foods, or effects to be sold.

C.—Location or route over which the peddler intends to sell or distribute his wares, provided that, in no instance, shall any person having a bad character be permitted to obtain a permit.

SECTION 3. BE IT FURTHER ORDAINED, ETC., That permits issued under the authority of this ordinance shall be non-saleable and

[illegible] dividuals or as to location [illegible]

SECTION 4. BE IT FURTHER ORDAINED, ETC., That the Mayor shall prescribe such other rules and regulations as to the form of application for permits and their issuance, as may be required to carry out the full intent and purpose of this ordinance.

SECTION 5. BE IT FURTHER ORDAINED, ETC. That the Mayor may designate a Director of Permits who, subject to the direction of the Mayor, shall function as the head of the Permit Division and who shall sign all permits. The Mayor may also designate such inspectors, clerks and other assistants that may be necessary for the proper conduct of the Permit Division and shall fix their salaries.

SECTION 6. BE IT FURTHER ORDAINED, ETC., That it shall hereafter be the mandatory duty of the Director of Permits to transmit, day by day as collected by him, to the City Treasurer, all monies and fees received for the issuance of the aforesaid permits; and the City Treasurer upon the receipt of said monies and fees shall immediately deposit same in a special account to be kept separate and apart from the other funds of the City, to be designated as the "Permit Fund Account," from which special account disbursements shall hereafter be made by the City Treasurer as

provided in this section of this ordinance.

It is hereby ordered that all monies and fees now on hand in the accounts kept by the Director of Permits, heretofore collected by him for the issuance of permits, shall forthwith be transmitted by the Director of Permits to the City Treasurer for deposit in the aforesaid account; provided, however, that out of said monies and fees now on hand, and in the possession of the Director of Permits there shall be retained by him the sum of five thousand ($5,000.00) dollars, which amount shall then constitute the Contingent Fund of the Mayor to be expended by the Mayor at his discretion.

Whenever the said Contingent Fund of five thousand ($5,000.00) dollars herein ordered retained by the Director of Permits shall become exhausted or reduced to less than five thousand ($5,000.00) dollars, upon proper requisition made by the Director of Permits to the City Treasurer, duly approved by the City Auditor, the Director of Permits is authorized to warrant from, and the City Treasurer is authorized to pay out of the aforesaid "Permit Fund Account" an additional sum of five thousand ($5,000.00) dollars or such additional sum as may be necessary to bring the Mayor's Contingent Fund again up to the sum of five

thousand ($5,000.00) dollars; and additional requisitions by the Director of Permits for similar amounts may be made thereafter, under the same conditions aforesaid, whenever conditions require that the said Contingent Fund be replenished.

SECTION 7. BE IT FURTHER ORDAINED, ETC., That any person, firms and corporations violating the foregoing section of this ordinance, or any of the regulations prescribed in order to carry out its true intent and purpose shall be subject to a fine of not more than twenty-five ($25.00) dollars or imprisonment for not more than thirty (30) days, or both, at the discretion of the Recorder having jurisdiction over such violation; and each offense shall constitute a separate violation.

SECTION 8. BE IT FURTHER ORDAINED, ETC., That Ordinances Nos. 14,294; 14,333; 14,404 and 15,347 C. C. S., and all other ordinances or part of ordinances in conflict with provisions of this ordinance be, and the same are hereby repealed.

All permits for food, fruits and vegetables shall first be approved by the Market Division.

Adopted by the Commission Council of the City of New Orleans, Feb. 20, 1942.

G. E. WEAVER,
Clerk of Commission Council.
Approved: Feb. 20, 1942.
ROBT. S. MAESTRI,
Mayor.

A True Copy:
H. E. WRIGET,
Acting Secretary.

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APPENDIX "B"

17,989

Mayoralty of New Orleans.
City Hall, December 29, 1950.
Calendar No. 18,801.
NO. 17,989 COMMISSION COUNCIL SERIES.
By Mayor Morrison:
AN ORDINANCE to amend the title, the preamble and Section 1 (as such Section was last amended by Ordinance No. 16,865, C. C. S.) of Ordinance No. 15,510, C. C. S., entitled.

"An Ordinance regulating and fixing the cost of permits to be issued for the purpose of operating in and on public streets and other public places, legal coin-operated machines, to vendors of merchandise, solicitors, canvassers, etc., for the holding of fish fries, parades, circuses and the holding of meetings, rallies and public entertainments, etc., and repealing Ordinances Nos. 14,294, 14,302, 14,434 and 15,347, C. C. S., and any and all ordinances and parts of ordinances in conflict herewith."

SECTION 1. BE IT ORDAINED BY THE COMMISSION COUNCIL OF THE CITY OF NEW ORLEANS, That the title of Ordinance No. 15,510, C. C. S., be and the same is hereby amended to read as follows:

"AN ORDINANCE regulating and fixing the cost of permits to be issued to any person, firm, corporation, or partnership, operating merchandise vending machines, and other vendors of merchandise, solicitors, canvassers, etc., and for the holding of fish fries, parades, circuses, meetings, rallies and public entertainments, etc., and repealing Ordinances Nos. 14,294, 14,302, 14,434 and 15347, C. C. S., and any and all ordinances or parts of ordinances in conflict therewith.

SECTON 2. BE IT FURTHER ORDAINED, ETC., That the preamble of Ordinance No. 15,510, C. C. S., be and the same is hereby amended to read as follows:

"WHEREAS, in order to safeguard public safety, health, comfort and the general welfare of the people of New Orleans it is necessary that proper supervision and regulations be imposed on all persons, firms, corporations, or partnerships, who in any way desire to use the public streets, sidewalks, or other public places, or private places, or public halls for the conduct of any business or calling, or the holding of any

meetings or public entertainment."

SECTION 3. BE IT FURTHER ORDAINED, ETC., That Section 1 (as such Section was last amended by Ordinance No. 16,865, C. C. S.) of Ordinance No. 15,510, C. C. S., be and the same is hereby amended as follows:

AMENDMENT NO. 1

Delete all of lines one (1) through fifteen (15), (both inclusive) and insert in lieu thereof the following:

"SECTON 1. BE IT ORDAINED BY THE COMMISSION COUNCIL OF THE CITY OF NEW ORLEANS, That, from and after the passage of this ordinance, every person, firm, corporation, or partnership who shall desire to use the public streets, sidewalks or public places, or private places, or business establishments for the conduct of any of the business or callings hereinafter setforth, or to hold meetings or rallies, or public entertainments in private or public halls or places, shall first apply to and obtain from the Mayor of the City of New Orleans a permit according to the following schedules, which permit shall in each instance state the occasions for which it is issued and the date upon which it shall expire. Said permits shall be paid for by the

ules:"

AMENDMENT NO. 2

Delete all of paragraph "U" and insert in lieu thereof the following:

"U. To operate automatic coin vending machines (other than penny machines), selling candy, cigarettees, soft drink, or other articles of merchandise, per machine, per year. $5.00

For penny vending machines, per machine, per year ... $2.50

Adopted by the Commission Council of the City of New Orleans, January 5, 1951.

G. S. WEAVER,
Clerk of Commission Council.

Approved January 5, 1951.

deLESSEPS S. MORRISON,
Mayor.

A true copy:

W. J. ERIKSON,
Secretary to the Mayor.

APPENDIX "C"

17,633

Mayoralty of New Orleans,
City Hall, June 7, 1949.
Calendar No. 18,430.

NO. 17,633 COMMISSION COUNCIL SERIES.

BY MAYOR MORRISON:

AN ORDINANCE to amend Section 1, Paragraph "P" of Ordinance No. 15,510 C. C. S., commonly known as the Mayoralty Permit Ordinance.

SECTION 1. BE IT ORDAINED BY THE COMMISSION COUNCIL OF THE CITY OF NEW ORLEANS, That Paragraph "P" of Section 1 of Ordinance No. 15,510 C. C. S., be, and the same is hereby amended to read as follows:

"P-1. To take and sell photographs on City streets or other public places where parties photographed willingly pose for picture and picture is developed on spot where taken and there delivered to parties photographed $ 5.00

"P-2 To take and sell photographs on City Streets or in any other public places in any other manner than that described in the preceding paragraph 250.00

Adopted by the Commission Council of the City of New Orleans, June 17, 1949.

G. S. WEAVER,
Clerk of Commission Council.

Approved June 17, 1949.

deLESSEPS S. MORRISON,
Mayor.

A true copy:
W. J. ERIKSON,
Secretary to the Mayor.

APPENDIX "D"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, November 18, 1954

CALENDAR NO. 228

NO. 217 MAYOR COUNCIL SERIES

BY: MR. DUFFOURC MR. FITZMORRIS
MR. CASSIBRY MR. MOORE

AN ORDINANCE to amend and re-ordain Ordinance No. 15,510 C.C.S., entitled: "AN ORDINANCE regulating and fixing the cost of permits issued for the purpose of operating in and on public streets and other public places, legal coin-operated machines, to vendors of merchandise, solicitors, canvassers, etc., for the holding of fish fries, parades, circuses and the holding of meetings, rallies and public entertainments, etc., and repealing Ordinances Nos. 14,294, 14,302, 14,434 and 15,347 C.C.S., and any and all ordinances and parts of ordinances in conflict herewith," by adding an additional paragraph to Section 1 thereof; and repealing all ordinances, or parts of ordinances, in conflict herewith.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Section 1

of Ordinance No. 15,510 C.C.S., be and the same is hereby amended by adding an additional paragraph at the end of Section 1 thereof, to read as follows:

> "In addition to the changes shown in the above schedule, each applicant shall be required to pay the sum of Twenty-Five Cents (25¢), for account of the Police Pension Fund, which additional sum shall be transmitted by the Collector of Revenue, day by day as collected by him, to the Chief of Bureau of the Treasury. At the end of each month the Chief of Bureau of the Treasury shall remit all such sums so collected for account of the Police Pension Fund to the Board of Trustees, Police Pension Fund, City of New Orleans.

SECTION 2. That all ordinances, or parts of ordinances, contrary to or in conflict herewith, be and the same are hereby repealed.

Adopted by the Council of the City of New Orleans December 16, 1954.

/s/ [illegible]
PRESIDENT OF COUNCIL

Delivered to the Mayor
on December 17, 1954 APPROVED: 21 Dec 54

Returned by the Mayor
on Dec 21 1954 at 11:00 A.M.

/s/ G.S. Weaver
CLERK OF COUNCIL

/s/de Lesseps S. Morrison
M A Y O R

MEMORANDUM TO CALENDAR ORDINANCE 228

Notice required by Sec. 3-113(5) of the City Charter should be published on this ordinance, giving summary thereon as follows:

> Said ordinance will require all applicants to pay the sum of twenty-five cents for account of the Police Pension Fund, in addition to the cost of permits required by Ordinance 15,510, C.C.S. for the purpose of operating in and on public streets and other public places, legal, coin-operated machines, of vendors of merchandise, solicitors, canvassers, etc., and for fish fries, parades, meetings, rallies and entertainments, etc.

APPENDIX "E"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, JANUARY 28, 1965

CALENDAR NO. 3261

NO. 3027, MAYOR COUNCIL SERIES

BY: COUNCILMAN KELLY

AN ORDINANCE amending Section 46-1 of Ordinance No. 828, M.C.S., known as the Code of the City of New Orleans, by adding paragraph (40) thereto and by adding Section 46-7 to Chapter 46 of said Code, relative to permit fees of $250.00 to be paid by transient merchants doing business in hotel rooms or other temporary quarters and regulating the conduct of said business.

SECTION I. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Section 46-1 of Ordinance 828, M.C.S., be and is amended by adding Paragraph (40) thereto, reading as follows:

> (40) For any transient vendor, canvasser, solicitor or merchant engaged in the sale at retail of goods, wares and merchandise and who, for the purpose of carrying on such business, hires, leases, or occupies, either in whole or in part, a room, or

some other temporary quarter a structure for the exhibition and sale of such goods, wares and merchandise and with the intention to close out or discontinue such business within a period of one year from the date of commencement thereof, per location, per year, $250.00

SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Chapter 46 of Ordinance 828, M.C.S., be and is amended by adding the following Section thereto, to-wit:

SECTION 46-7. Permit for sales at retail in temporary quarters.

The words "transient vendors, canvassers, solicitors and merchants" as used herein, shall be defined as meaning all persons engaging in the sale at retail of goods, wares and merchandise within the corporate limits of the City of New Orleans and who, for the purpose of carrying on such business, hires, leases, or occupies, either in whole or in part, a room, building, or other structure for the exhibition and sale at retail of such goods, wares, and merchandise, and with the intention to close out or discontinue such business within a period of one year from the date of the commencement thereof.

The provisions of this Section shall not apply to any person selling fruits, vegetables or farm products when raised by such vendor, or to any person who conducts a sale pursuant to statute or court order.

I. It shall be unlawful for any transient vendor canvasser, solicitor or merchant to sell at retail or offer for sale at retail within the corporate limits of the City of New Orleans any goods, wares or merchandise except in accordance with the provisions of this section.

2. Every transient vendor, canvasser, solicitor or merchant subject to the provisions of this section, before selling at retail, or offering for sale at retail, within the City of New Orleans any goods, wares or merchandise, either from stock or by sample, shall make application to the Director of Finance of the City of New Orleans for a permit to carry on such business in the City of New Orleans. Such application shall be in writing, duly sworn to by the applicant in person, or by the applicant's duly authorized representative, and shall contain the following information.

(a) The name of the person having the management or supervision of such business during the time it shall be carried on in the City of New Orleans; the address of such person while engaged in such business in the City of New Orleans, and the capacity in which such person will act; that is, whether as proprietor or agent, and the name of the person for whose account the business shall be carried on, and if a corporation, under the laws of what state the same is incorporated.

(b) Three business references.

(c) The place where the owner of such business conducts or maintains an established place of business.

(d) The place in the City of New Orleans where it is proposed to carry on such business, and the length of time during which it is expected or proposed that such business shall be conducted.

(e) The place, other than the permanent place of business of the owner, where such transient vendor, canvasser, solicitor or merchant within the six months next preceeding the date of such application conducted or

carried on a temporary or transitory business, stating the nature thereof and giving the post office and street addresses of any building or office in which such business was so conducted.

(f) A statement of the nature, character and quantity of the goods, wares or merchandise to be sold at retail or offered for sale at retail in the City of New Orleans and the invoice value of such goods, and a statement as to whether the goods are to be sold at retail from stock in possession or by sample, and whether the same are to be sold at retail at auction or public outcry, or by personal solicitation, or otherwise. Bills or invoices of purchase of goods shall be attached to the application when demanded by the Director of Finance in the [part of manuscript missing]

(g) A brief statement of the nature and character of the advertising done or to be done in order to attract customers, and, if required by the Director of Finance, copies of all advertising, whether by handbills, circulars, newspaper advertising or otherwise, shall be attached to the application as exhibits thereto.

(h) The number, either of arrests or convictions of misdemeanors or crimes, and the nature of the offenses for which arrested or convicted, if any.

(i) To the application must be appended a letter from the firm for which the applicant purports to do business, authorizing the applicant to act as its representative.

3. It shall be unlawful for any transient vendor, solicitor, canvasser or merchant to engage in business until he shall have first applied to and

obtained a permit to engage in business, in accordance with the provisions of this Section and especially the provisions of paragraph 2 of this Section, and has paid all taxes and fees required by law for the transaction of such business in the City of New Orleans. It shall be the duty of the Director of Finance to issue such permit in writing which shall state the date same is issued, the nature of the business authorized to be carried on and the expiration date of said permit, the place where such business may be carried on under such permit, and the name of the person or persons authorized to carry on the same, which permit shall be signed by the Director of Finance or his authorized representative. The permit so issued shall be posted conspicuously in the place of business named therein. In the event the person applying for such permit shall desire to do business in more than one place, then separate permits shall be applied for and issued for each place of business, and shall be posted conspicuously in each place of business, and the fee herein provided for shall be paid for each permit.

4. The violation of any of the provisions of this Section, or the doing of business otherwise than provided in the application and permit issued thereon, shall constitute a forfeiture of the permit, and the Director of Finance shall suspend the operation of such permit not to exceed ten days, and upon the request of the holder of such permit, grant a hearing and rule upon such forfeiture. Should the Director of Finance find that there has been a violation of the condition of the permit or of this Section, working a forfeiture of the permit, such permit shall be immediately forfeited, surrendered, and cancelled. A forfeiture of the permit shall not entitle the transient vendor, canvasser, solicitor or merchant to any refund of taxes or fees paid.

5. Immediately upon issuing any permit provided for in Section 46-7, the Director of Finance or any of his deputies shall at any time thereafter and at all reasonable hours make an inspection of the place of business as provided in said permit and shall determine whether or not such business is carried on or conducted by the person or persons and in the manner provided in the permit, and the application upon which the permit was issued, and whether the permit is posted as provided by Section 46-7, and whether or not the other provisions of said Section are being observed in the carrying on of such business.

6. In order to defray the cost and expense of the enforcing of this Section, every such transient vendor, canvasser, solicitor or merchant subject to the provisions of this Section, shall, in addition to all taxes, privileges and fees required by law to be paid for the transacting of such business in the City, pay a permit fee of $250.00, which shall be paid to the Director of Finance, or to his designated deputy. All permit fees collected under this Section 46-7 shall be transmitted to the City Treasurer in accordance with Section 46-5 of this Chapter.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS MAR 4, 1965.

/s/ JOSEPH V. DI ROSA
PRESIDENT OF COUNCIL

Delivered to the Mayor
on Mar 4, 1965

APPROVED: Mar 5, 1965
/s/V. H. SCHIRO
M A Y O R

Returned by the Mayor
on Mar 5, 1965
at 11:00 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

APPENDIX "F"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, MAY 28, 1970

CALENDAR NO. 4712

NO. 4346 MAYOR COUNCIL SERIES

BY: COUNCILMAN DiROSA

AN ORDINANCE to amend Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, by adding new paragraph (41) to Section 46-1 relative to permits required for various callings or occasions.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by adding new paragraph (41) to Section 46-1.

"(41) For the purpose of operating a retail business establishment exhibiting and selling to the public books, magazines, periodicals and other publications or paraphernalia which feature nudity, simulate natural or unnatural sex acts or otherwise appeal to sexually prurient interests and which establishments cater exclusively to adults
. . . . . $10,000.00

SECTION 2. The provisions of this Ordinance shall become effective immediately and the Director of Finance shall collect one-half (½) year permit fee for the remainder of 1970 and a full year permit fee each year thereafter."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS JUL 16 1970.

/s/ JAMES A. MOREAU
PRESIDENT OF THE COUNCIL

Delivered to the Mayor on JUL 16 1970

Approved: JUL 21 1970

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on JUL 21 1970 at 9:00 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

CRS 70-137
mc

APPENDIX "G"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, JULY 16, 1970

CALENDAR NO. 4744

NO. 4359 MAYOR COUNCIL SERIES

BY: COUNCILMAN MOREAU

AN ORDINANCE to amend Chapter 46-1 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, relative to a schedule of fees for certain permits, by deleting Paragraph (1) in its entirety.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Chapter 46-1 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by deleting Paragraph (1) in its entirety and substituting in lieu thereof the following:

(1) To sell novelties, etc. on the city streets:

A. For a fixed location to sell novelties, etc.:

(a) During the Mardi Gras season beginning on January 6 through Mardi Gras Day $50.00

(b) There shall be a $50.00 deposit on these permits to guarantee payment of sales tax at the end of the Mardi Gras season.

(c) A specific location can be assigned, but not guaranteed by the City.

(d) These permits shall be non-transferable.

B. For moving vendors

(a) During the Mardi Gras season beginning on January 6 through Mardi Gras Day $25.00

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS AUG 6 1970.

/s/ JAMES A. MOREAU
PRESIDENT OF THE COUNCIL

Delivered to the Mayor on AUG 6 1970
Approved: AUG 7 1970

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on AUG 7 1970 at 9:30 A.M.

/s/ROGER L. SARRAT
CLERK OF COUNCIL

CRS 70-76
mc

APPENDIX "H"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, JULY 16, 1970

CALENDAR NO. 4745

NO. 4360 MAYOR COUNCIL SERIES

BY: COUNCILMAN MOREAU

AN ORDINANCE to amend Chapter 46-1 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, relative to a schedule of fees for certain permits, by deleting Paragraph (14) in its entirety.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Chapter 46-1 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, relative to a schedule of fees for certain permits, be and is hereby amended by deleting Paragraph (14) in its entirety.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS AUG 6 1970.

/s/ JAMES A. MOREAU
PRESIDENT OF THE COUNCIL

Delivered to the Mayor on AUG 6 1970
Approved: AUG 7 1970

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on AUG 7 1970 at 9:30 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

CRS 70-76
mc

APPENDIX "I"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, NOVEMBER 12, 1970

CALENDAR NO. 4821

NO. 4439 MAYOR COUNCIL SERIES

BY: COUNCILMAN JOHN D. LAMBERT, JR.
(BY REQUEST)

AN ORDINANCE to amend Ordinance Number 828, M.C.S. known as the Code of the City of New Orleans, Chapter 46, relative to a schedule of fees for certain permits, by redrafting Section 46-5 and Sub-sections (1) through (40) of Section 46-1, deleting Section 46-6 and adding Sections 46-14 and 46-15.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Chapter 46 of Ordinance Number 828, M. C. S., known as the Code of the City of New Orleans, be and is hereby amended by deleting Section 46-5 in its entirety and substituting in lieu thereof the following:

SECTION 46-5. FEES TO GO TO GENERAL FUND

The Collector of Revenue shall transmit, day by day, as collected by him, to the Bureau of

Treasury all moneys and fees received for the issuance of the permits required by this chapter. The Bureau of the Treasury upon the receipt of such moneys and fees shall immediately depoist them in the General Fund.

SECTION 2. That Chapter 46, Section 46-1 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by deleting Sub-sections (1) through (40) of Section 46-1 in their entirety and substituting in lieu thereof the following:

SECTION 46-1

(1) To sell the following items on city streets during Mardi Gras season beginning January 6 thru Mardi Gras Day:

A. For a fixed location

(a) (1) To sell novelties $50.00
(2) To sell candies, nuts and confections $50.00
(3) To sell sandwiches and soft drinks $50.00

(b) There shall be a $50.00 deposit on each permit to guarantee payment of sales tax at the end of the Mardi Gras season.

(c) A specific location can be assigned but not guaranteed by the City.

B. For moving locations

(1) To sell novelties $25.00
(2) To sell candies, nuts and confections $25.00
(3) To sell sandwiches and soft drinks $25.00

(2) To sell novelties on the city streets other than during the Mardi Gras season
Per sales outlet, for one year ... $25.00

(3) To sell candies, nuts and confections on foot or from pushcarts or other vehicles on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year $25.00

(4) To sell ice cream, ice cream bars and related confections from push carts or other vehicles on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year $25.00

(5) To sell hot tamales and/or hot dogs on foot or from push carts on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year $25.00

(6) To peddle cooked food, cakes, pies, etc. other than during the Mardi Gras season.
(a) Per sales outlet, per half-year $25.00
(b) Per sales outlet, per year ... $50.00

(7) To sell fruits and vegetables on foot or from push carts on city streets or public places
per sales outlet, per year $25.00

(8) To sell fruits and vegetables from animal-drawn or motor propelled vehicles
per vehicle, per year $50.00

(9) To sell home-manufactured articles or homegrown products on foot
per year $25.00

(10) To paint, exhibit or sell paintings and/or portraits or to exhibit or sell works of art

on public property in immediate vicinity of Jackson Square
per year $40.00

(11) To sell razor blades, toilet articles, pencils, shoe laces, etc. on city streets or public places
per year $15.00

(12) To sell tickets to supper to be held in private homes
per event $15.00

(13) Demonstrations of food products or devices in public places or markets, etc.
per engagement $25.00

(14) To distribute samples, canvass on city streets or from house to house
per year
(a) for crew manager $25.00
(b) for each crew member $15.00

(15) To advertise with music, on truck or on foot or in costume or for any other advertising stunt on public property
(a) per year $100.00
(b) per month $15.00

(16) To take and sell photographs on the city streets or other public places where the parties photographed willingly pose for the picture and the picture is developed on the spot where taken and there delivered to the parties photographed
per year $25.00

(17) To take and sell photographs on city streets or in any other public places in any other manner than that described in the preceding paragraph
per year $250.00

(18) To operate a hand organ in the city streets
per year $15.00

(19) To conduct a sale of goods, wares or merchandise in issuance, bankruptcy, mortgage, insolvent assignees, receivers, trustees removal or closing out sale or sale of goods, wares and merchandise damaged by fire or otherwise in accordance with Sections 51:31 to 51:41 of the Revised Statutes of Louisiana
per sale $25.00

(20) Weighing devices, etc. on sidewalks or in public places
per nickel machine, per year $25.00
per penny machine, per year ... $15.00

(21) Exhibitions, expositions, etc., educational or otherwise, when admission is charged or offerings solicited or accepted
per month $25.00

(22) For a circus, a carnival or any other activity wherein mechanical devices for amusement other than coin-operated are used on a temporary basis per year in addition to license $100.00

(23) To operate games of sport or skill when admission is charged or a fee collected in any manner, including putt-putt games, shooting galleries, archery, etc.
per year $100.00

(24) To conduct sport events when admission is charged or a fee collected in any manner and when an annual license is not paid to the city:
(a) Admission not more than 75¢, per event $15.00
(b) Admission more than 75¢, per event $25.00

(25) For amateur and professional prizefights or boxing and wrestling contests:

(a) Admission not more than 75¢, per event $15.00

(b) Admission more than 75¢, per event $25.00

(26) For entertainment (other than fairs given by a church for the benefit of the church or by a school for the benefit of the school) dance reviews, plays, festivals bazaars, etc., with or without music, when admission is charged or when no admission is charged, but subscription fees or contributions are collected

(a) Admission not more than 75¢ or by invitation
per event $15.00

(b) Admission more than 75¢, per event $25.00

(27) For Carnival Balls $25.00

(28) For philarmonic or symphonic recitals, operas or other entertainments of like nature when admission is charged or a fee or subscription is collected in any manner

(a) Admission not more than 75¢ or by invitation
per event $15.00

(b) Admission more than 75¢ .. $25.00

(29) For orchestras in restaurants or business establishments for purposes of entertainment or dancing when no admission is charged
per year $50.00

(30) For music other than an orchestra for entertainment purposes or dancing when no

admission is charged or fee exacted
per year $25.00

(31) For music for entertainment purposes or dancing where admission is charged or fee exacted in any manner
per year $100.00

(32) For dancing when admission is charged:

(a) Admission not more than 75¢, per event $15.00

(b) Admission not more than $1.99, per event $25.00

(c) Admission $2.00 or more, per event $50.00

(33) For a private dance in a public hall per event $15.00

(34) To give a rummage sale
per event $5.00

(35) For any transient vendor, canvasser, solicitor or merchant engaged in the sale at retail of goods, wares and merchandise and who, for the purpose of carrying on such business hires, leases or occupies, either in whole or in part, a room, or some other temporary quarter a structure for the exhibition and sale of such goods, wares and merchandise and with the intention to close out or discontinue such business within a period of one year from the date of commencement thereof
per location, per year $250.00

SECTION 3, That Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by deleting Section 46-6 in its entirety.

SECTION 4. That Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by adding Section 46-14 as follows:

SECTION 46-14 PEDDLING NOVELTIES, SOUVENIRS AND FOODS–PROHIBITED NEAR SCHOOLS

It shall be unlawful to sell novelties, souvenirs, candies, nuts, confections, ice cream, ice cream bars, hot tamales, hot dogs, sandwiches, soft drinks, cakes, pies, fruits and vegetables on the city streets within two (2) blocks of any elementary Or secondary school when said school is in session.

SECTION 5. That Chapter 46 of Ordinance Number 828, M.C.S., known as the code of the City of New Orleans, be and is hereby amended by adding Section 46-15 as follows:

SECTION 46-15 PENALTIES AND INTEREST

All mayoralty permits must be obtained prior to the occasion for which it is issued. Should applicant fail to secure the permit prior to the occasion, the following penalties and interest shall apply:

A. Mayoralty permits acquired on a regular yearly basis shall become delinquent February 1 of that year. If the regular yearly permit is not obtained by February 1 of that year, there shall be interest added to the fee at the rate of eight per centum (8%) per annum from the due date until paid. In addition to the interest that may be so added, a penalty shall be imposed at the rate of twenty per centum (20%) of the fee if the failure to obtain said permit is for not more than thirty days and with an additional twenty

per centum (20%) for each additional thirty days or fraction thereof during which the failure continues, not to exceed sixty per centum (60%) of the amount of the fee.

B. Mayoralty permits acquired on other than a regular yearly basis shall become delinquent at the start of the occasion. If the permit has not been obtained prior to the occasion, there shall be interest added to the fee at the rate of eight per centum (8%) per annum from due date until paid. In addition to the interest that may be so added, a penalty shall be imposed at the rate of fifty per centum (50%) of the fee.

C. The Director of Finance may, at his discretion, for good cause, waive, in whole or in part, any of the penalties herein provided.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS DEC 18 1970

/s/ JOSEPH V. DI ROSA
PRESIDENT OF THE COUNCIL

Delivered to the Mayor on DEC 21 1970
Approved: DEC 22 1970

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on DEC 22 1970 at 11:30 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

APPENDIX "J"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, MAY 6 1971

CALENDAR NO. 4967

NO. 4555 MAYOR COUNCIL SERIES

BY: COUNCILMAN LAMBERT (By request)

AN ORDINANCE to amend and reordain Section 46-1 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans relative to a schedule of fees for certain permits and regulations governing these permits and to amend Chapter 46 of said Code by adding thereto a new section, Section 46-16 relating to penalty for failure to comply with the regulations.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that Chapter 46 of Ordinance Number 828, MC.S., known as the Code of the City of New Orleans be and is hereby amended by adding to Section 46-1 after the words "the date upon which it will expire" the following:

> and shall be in addition to any other tax or license to which permittee may be liable.

SECTION 2. That Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby amended by adding to Section 46-1, subsection (1) A. (b) the following:

> This deposit will be forfeited 30 days after Mardi Gras if taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales tax and use tax in accordance with Chapter 56 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans.

SECTION 3. That Chapter 46, Section 46-1 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby amended by adding to Section 46-1, subsection (1) A. the following:

SECTION 46-1

(1)A. (d) Vendors at fixed locations on public streets, property or right-of-ways may set up their vehicles or stands during parade time only. Parade time shall be defined as that time commencing two (2) hours before the start of a parade and ending two (2) hours after the passing of the parade. This provision will not apply when there is more than one parade on any Calendar Day in which case vendor must move two (2) hours after the end of the last parade for that Calendar Day.

(e) Where the use of a fixed location would interfere with a parade along a particular route or interfere with public safety, the city shall have the option to deny the use of such location for such period of time as may be necessary.

(f) Vendors selling from fixed locations shall comply with all provisions of

Chapter 38 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans relative to traffic regulations, especially, but not exclusively with regard to distances from fire hydrants and intersections.

(g) The trailer, van and any appendant thereto from which a vendor sells shall not exceed thirty (30) feet in length or nine (9) feet in width.

(h) All vendors selling from fixed locations shall have the mayoralty permit as provided for in this section publicly displayed by the permittee at his place of business and failure to do so shall constitute a violation of this chapter.

(i) No Mardi Gras permits for vendors from fixed locations whether on private or public property shall be issued for the area bounded by the downtown side of Iberville St. to the river side of Royal St. to the uptown side of Dumaine St. to the river side of Dauphine St.

SECTION 4, That Chapter 46, Section 46-1 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans is hereby further amended by adding to Section 46-1, subsection (1) B., the symbol (a) in front of the words "For Moving Vendors" and by adding subsections as follows:

SECTION 46-1

(1)B. (b) All moving vendors must keep moving except when making a sale.

(c) The Department of Finance shall provide moving vendors at their cost with a Mardi Gras Mayoralty Badge which must

be publicly displayed on their person at all times and failure to do so shall constitute a violation of this chapter. A permittee shall be required to issue a Mardi Gras Mayoralty badge to each of his agents or employees and failure to do so shall constitute a violation of this Chapter by the permittee.

(d) No Mardi Gras moving vendors shall be permitted in the area bounded by the downtown side of Iberville St. to the river side of Royal St. to the uptown side of Dumaine St. and to the river side of Dauphine St.

SECTION 5. That Chapter 46, Section 46-1 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby further amended by deleting (6) (a) in its entirety and by deleting the sumbol (b) in subsection (6) in front of the words "Per sales outlet".

SECTION 6. That Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby amended by adding Section 46-16 as follows:

SECTION 46-16. PENALTY. Persons who fail to obtain said permit or to comply with any of the regulations contained in this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the punishment prescribed in Section 1-6 of the Code of the City of New Orleans. A permittee so convicted shall forfeit said permit and not be entitled to a refund of the fees paid therefor.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS MAY 13 1971

/s/ JOSEPH V. DI ROSA
PRESIDENT OF COUNCIL

Delivered to the Mayor on MAY 13 1971
Approved: MAY 17 1971

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on MAY 17 1971 at 1:30 P.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

APPENDIX "K"

ORDINANCE
(AS AMENDED)
CITY OF NEW ORLEANS

CITY HALL, SEPTEMBER 23, 1971
CALENDAR NO. 5112

No. 4744 MAYOR COUNCIL SERIES
BY COUNCILMAN DI ROSA

AN ORDINANCE to amend Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans by amending and re-ordaining the first paragraph of Section 46-1 and by adding subsection (36) to Section 46-1 relative to mayoralty permits for vendors of newspapers and magazines and vendors of flowers and to add Section 46-1.1 relative to the validity of certain mayoralty permits in the Vieux Carre.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS THAT Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby amended by deleting the first paragraph of Section 46-1 in its entirety and inserting in lieu thereof the following: "Every person who shall desire to use the public streets, sidewalks or public places or private places or business establishments for the conduct of any of the businesses or callings hereinafter set forth or to

hold meetings or rallies or public entertainment in private or public halls or places shall first apply to and obtain from the Department of Finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be liable. Such permits, however, are not valid in the Vieux Carre except as provided in Section 46-1.1 of this Chapter. Such permits shall be paid for by the applicant at the time of issuance according to the following schedule:"

SECTION 2. THAT Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans be and is hereby amended by adding Section 46-1 (36) to read as follows:

"SECTION 46-1.

(36) To sell flowers on the city sidewalks or streets
Per sales outlet, per year $50.00

SECTION 3. THAT Chapter 46 of Ordinance Number 828, M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by adding Section 46-1.1 as follows:

"SECTION 46-1.1. PERMITS VALID IN THE VIEUX CARRE Permits designated by the following numbers of Section 46-1 are valid within the area designated as the Vieux Carre, which is defined as the area bounded by the River, the Uptown side of Esplanade Avenue, the River side of North Rampart Street and the Lower side of Iberville Street, to wit: Sections (5), (10), (12), (19), (21), (24) through and including (36) and (41).

SECTION 4. THAT the effective date of this ordinance shall be January 1, 1972.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS Dec. 8, 1971.

/s/ JAMES A. MOREAU
PRESIDENT OF COUNCIL

Delivered to the Mayor on Dec. 8, 1971.
Approved: Dec. 9, 1971

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on Dec. 9, 1971 at 9:30 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

cc: 183
sah

APPENDIX "L"

ORDINANCE
(AS AMENDED)

CITY OF NEW ORLEANS

CITY HALL, SEPTEMBER 23, 1971

CALENDAR NO. 5113

NO. 4746 MAYOR COUNCIL SERIES

BY: COUNCILMAN DI ROSA

AN ORDINANCE to amend Chapter 14 of Ordinance Number 828 M. C. S., known as the Code of the City of New Orleans, by adding Section 14-40, relative to solicitations in the Vieux Carre.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Chapter 14 of Ordinance Number 828 M. C. S., known as the Code of the City of New Orleans be and the same is hereby amended by adding Section 14-40 to read as follows:

SECTION 14-40

SOLICITATIONS FOR CHARITY, ETC., PROHIBITED IN VIEUX CARRE.

It shall be unlawful to solicit money, subscriptions, advertising, gifts in kind or contributions or sell tickets, or magazines for any charitable, religious, educational or benevolent purposes as herein set forth on the sidewalks, streets, malls or squares in the section known as the Vieux Carre which is defined as the area

bounded by the River, the Uptown side of Esplanade Avenue, the River side of North Rampart Street and the Lower side of Iberville Street.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS DEC. 15, 1971

/s/ JAMES A. MOREAU
PRESIDENT OF COUNCIL

Delivered to the Mayor on DEC. 15, 1971
Approved: DEC. 17, 1971

/s/ MOON LANDRIEU
M A Y O R

Returned by the Mayor
On DEC. 17, 1971 at 11:00 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

CC 71-191

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS Dec. 8, 1971.

/s/ JAMES A. MOREAU
PRESIDENT OF COUNCIL

Delivered to the Mayor on Dec. 8, 1971.
Approved: Dec. 9, 1971

MOON LANDRIEU
MAYOR

Returned by the Mayor
on Dec. 9, 1971 at 9:30 A.M.

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

cc: 183
sah

APPENDIX "M"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL April 6, 1972

CALENDAR 5244

NO. 4822 MAYOR COUNCIL SERIES

BY: COUNCILMAN DI ROSA

AN ORDINANCE to amend Chapter 46 of Ordinance No. 828 M.C.S. known as the Code of the City of New Orleans relative to vendors.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Chapter 46 of Ordinance No. 828 M.C.S. known as the Code of the City of New Orleans, be and is hereby amended by amending Section 46-1.1 to add the following thereto:

> "Vendors who have continuously operated the same business within the Vieux Carre under the authority of this Chapter for eight or more years prior to January 1, 1972 may obtain a valid permit to operate such business within the Vieux Carre."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS APR 13 1972

/s/ JOSEPH V. DI ROSA
PRESIDENT OF COUNCIL

Delivered to the Mayor on APR 13 1972
Approved: APR 17 1972

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
APR 17 1972 at 3:30 PM

/s/ ROGER L. SARRAT
CLERK OF COUNCIL

CRS 72-152
at

APPENDIX "N"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL August 31, 1972

CALENDAR NO. 5383

NO. 4957 MAYOR COUNCIL SERIES

BY: COUNCILMAN DIROSA

AN ORDINANCE to amend Section 46-1.1. of Chapter 46 of Ordinance Number 828 M. C. S., known as the Code of the City of New Orleans, relative to permits valid in the Vieux Carre.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, that Section 46-1.1. of Chapter 46 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, be and the same is hereby amended and reordained to read as follows:

"Section 46-1.1. Permits valid in the Vieux Carre. Permits designated by the following numbers of Section 46-1 are valid within the area designated as the Vieux Carre, which is defined as the area bounded by the river, the uptown side of Esplanade Avenue, the river side of North Rampart Street and the lower side of Iberville Street, to

wit: Sections (10), (12), (19), (21), (24) through and including (36) and (41)."

"Vendors who have continuously operated the same business within the Vieux Carre under the authority of this Chapter for eight or more years prior to January 1, 1972 may obtain a valid permit to operate such business within the Vieux Carre."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS SEP 21 1972

/s/ JOSEPH V. DI ROSA
PRESIDENT OF COUNCIL

Delivered to the Mayor on SEP 21 1972
Approved: SEP 28 1972

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor on
SEP 28 1972 at 11:45 PM

/s/ CAROL L. BREAUX
ACTING CLERK OF COUNCIL

APPENDIX "O"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL February 8, 1973

CALENDAR NO. 5537

NO. 5085 MAYOR COUNCIL SERIES

BY: COUNCILMAN DIROSA (BY REQUEST)

AN ORDINANCE to amend Chapter 46 of Ordinance Number 828 M.C.S., known as the Code of the City of New Orleans, by amending Section 46-1, relative to Mayoralty Permits for Vendors during the Mardi Gras Season.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS THAT Chapter 46 of the Ordinance #828M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by deleting Section 46-1 (1) in its entirety and inserting in lieu thereof the following:

SECTION 46-1

(1)A. Definitions:

1. "Mardi Gras Season" is defined as those days and nights commencing eleven (11) days before Mardi Gras and continuing until midnight on Mardi Gras day.

2. "Parade Route" is defined as that area extending one (1) city block in either direction of the streets used by the various parades while the parade is in progress.
3. "Parade Time" is defined as that time commencing two (2) hours before the starting time of a parade and ending two (2) hours after the passing of a parade, but no vendor shall sell or display his wares within the Central Business District which is defined as the area bounded by the River, Esplanade Avenue, Claiborne Avenue and Howard Avenue, prior to 6:00 p.m. on weekdays, except Mardi Gras Day. On weekends and on Mardi Gras Day when there is more than one parade on any Calendar Day the vendor must move two (2) hours after the end of the last parade for that Calendar day.
4. "Vehicle" is defined as a conveyance which is licensed by the Motor Vehicle Division of the Louisiana State Department of Safety.

B. To sell the following items on City Streets along the designated "Parade Route" during "Mardi Gras Season":

1. For a Fixed Location:

(a) To Sell

(1) Sandwiches, cooked foods and drinks (other than alcoholic beverages) $50.00
(2) Candy, nuts and confections . $50.00
(3) Novelties $50.00

(b) There shall be a $50.00 deposit on each permit to guarantee payment of sales tax at the end of the Mardi Gras Season. This deposit will be forfeited thirty (30) days after Mardi Gras if taxpayer has not filed his sales tax return. This provision shall not

restrict the authority of the Director of Finance to assess and collect sales tax and use tax in accordance with Chapter 56 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(c) A specific location can be assigned but not guaranteed by the City.

(d) Vendors at fixed locations on public streets, may set up their vehicles during "Parade Time" only.

(e) When the use of a fixed location would interfere with a parade along a particular route or interfere with public safety, the City shall have the option to deny the use of such location for such period of time as may be necessary.

(f) Vendors selling from fixed locations shall comply with all provisions of Chapter 38 of Ordinance #828 M.C.S., Code of the City of New Orleans relative to traffic regulations, especially, but not exclusively with regard to distances from fire hydrants and intersections.

(g) The trailer, van and any appendant thereto from which a vendor sells shall not exceed thirty (30) feet in length or nine (9) feet in width. Vendors must sell and display from a "vehicle"; no stands, card tables or the like shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral grounds or rights-of-way for the sale or display of goods.

(h) All vendors selling from fixed locations shall have the Mayoralty Permit as provided for in this section publicly displayed at his place of business and failure to do so shall constitute a violation of this Chapter.

(i) No Mardi Gras Mayoralty permits shall be issued for vendors from fixed locations on public streets, sidewalks, alleys, parks or squares in the Vieux Carre as defined in Section 65-6 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(j) All applicants of Mardi Gras Mayoralty Permits to sell food and/or drinks on public or private property must show proof of compliance with all regulations and requirements of the City Board of Health and the Department of Fire, Fire Prevention Bureau before permit can be issued.

2. For Moving Locations:

(a) To Sell

(1) Sandwiches, cooked foods and drinks (other than alcoholic beverages) $25.00
(2) Candy, nuts and confections . $25.00
(3) Novelties $25.00

(b) There shall be a $25.00 deposit on each permit to guarantee payment of sales tax as provided in Section 56-41, of Ordinance #828, M.C.S., Code of the City of New Orleans at the end of the Mardi Gras Season. This deposit will be forfeited 30 days after Mardi Gras, if taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales and use tax in accordance with Chapter 56 of Ordinance #828 M.C.S, Code of the City of New Orleans.

(c) All moving vendors must keep moving except when making a sale. No stands, card tables or the like, except handcarried displays, shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral

grounds or rights-of-way for the sale or display of goods.

(d) For each permit issued one (1) Mardi Gras Mayoralty Badge with a corresponding number shall be purchased by the permittee from the Department of Finance, which badge must be publicly displayed on their person at all times and failure to do so shall constitute a violation of this Chapter.

(e) Mardi Gras Mayoralty Permits for moving locations shall be invalid in the Vieux Carre as defined in Section 65-6 of Ordinance 828, M.C.S., Code of the City of New Orleans.

(f) Mardi Gras Mayoralty Permits for moving locations shall only be valid during "Parade Time" along designated "Parade Routes".

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS February 15, 1973

/s/ JAMES A. MOREAU
PRESIDENT OF THE COUNCIL

Delivered to the Mayor On Feb. 15, 1973
Approved: February 19, 1973

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
Feb. 19, 1973 at 3:20 P.M.

/s/ JOSEPH C. PETERSON
CLERK OF COUNCIL

APPENDIX "P"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, February 8, 1973

CALENDAR NO. 5538

NO. 5086 MAYOR COUNCIL SERIES

BY: COUNCILMEN DI ROSA AND DUPUY

An Ordinance to amend Chapter 46 of Ordinance #828 M.C.S., known as the Code of the City of New Orleans, by amending and reordaining Section 46-1 relative to permits.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS That Chapter 46 of Ordinance #828 M.C.S., known as the Code of the City of New Orleans, be and is hereby amended by amending and reordaining the first paragraph of Section 46-1 to read as follows: "Every person who shall desire to use the public streets, sidewalks or public places or private places or business establishments for the conduct of any of the businesses or callings hereinafter set forth or to hold meetings or rallies or public entertainments in private or public halls or places shall first apply to and obtain from the Department of Finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be

liable. Such permits, however, are not valid within the Central Business District area bounded by the River on the East, Claiborne Avenue on the West, Esplanade Avenue on the North and Howard Avenue on the South, except as provided in Section 46-1.1 of this Chapter. Such permits shall be paid for by the applicant at the time of issuance according to the following schedule:"

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS February 15, 1973

/s/ JAMES A. MOREAU
PRESIDENT OF COUNCIL

Delivered to the Mayor on February 15, 1973
Approved: February 19, 1973

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on February 19, 1973 at 3:20 P.M.

/s/ JOSEPH C. PETERSON
CLERK OF COUNCIL

APPENDIX "Q"

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL, FEBRUARY 8, 1973

CALENDAR No. 5539

NO. 5087 MAYOR COUNCIL SERIES

BY: COUNCILMEN DI ROSA AND DUPUY

An Ordinance to amend Chapter 46 of Ordinance #828 M.C.S., known as the Code of the City of New Orleans by amending and reordaining Section 46-1.1 relative to Permits valid within the Central Business District.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Chapter 46 of Ordinance #828 M.C.S., known as the Code of the City of New Orleans be and is hereby amended by amending and reordaining Section 46-1.1 to read as follows:

"SECTION 46-1.1 PERMITS VALID IN THE CENTRAL BUSINESS DISTRICT. Permits designated by the following Subsections of Section 46-1, Subsections (1), (10), (12), (19), (21), (24), through and including (36), are valid within that area of the Central Business District bounded by the River on the East, Claiborne Avenue on the West, Esplanade Avenue on the North and Howard Avenue on the South. Vendors who have continuously operated the same business within that area under the authority of this Chapter for eight or

more years prior to January 1, 1972 may obtain a valid permit to operate such business within that area."

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS February 15, 1973

/s/ JAMES A. MOREAU
PRESIDENT OF COUNCIL

Delivered to the Mayor on February 15, 1973
Approved: February 19, 1973

/s/ MOON LANDRIEU
MAYOR

Returned by the Mayor
on February 19, 1973 at 3:20 P.M.

/s/ JOSEPH C. PETERSON
CLERK OF COUNCIL

APPENDIX "R"

CHAPTER 46

PERMITS[1]

Section 46-1. Permits required for various callings or occasions; schedule of fees therefor.[2]

Every person who shall desire to use the public streets, sidewalks or public places or private places or business establishments for the conduct of any of the businesses or callings hereinafter set forth or to hold meetings or rallies or public entertainments in private or public halls or places shall first apply to and obtain from the Department of Finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be liable. Such permits, however are not valid within the Central Business District area bounded by the River on the East, Claiborne Avenue on the West, Esplanade Avenue on the North and Howard Avenue on the South, except as provided in Section 46-1.1 of this chapter. Such permits shall be paid for by the applicant at the time of issuance according to the following schedule:

(1) A. Definitions:

1. "Mardi Gras Season" is defined as those days and nights commencing eleven (11) days before Mardi Gras and continuing until midnight on Mardi Gras day.
2. "Parade Route" is defined as that area extending one (1) city block in either direction of the streets used by the various parades while the parade is in progress.
3. "Parade Time" is defined as that time commencing two (2) hours before the starting time of a parade and ending two (2) hours after the passing of a parade, but no vendor shall sell or display his wares within the Central Business

1. For charter provisions with respect to permits, including a definition of "permit" as there used, see Char., §§ 4-701 and 4-702. For provisions requiring a permit for engaging in various occupations or undertakings dealt with in the other chapters hereof, see those chapters.

2. For licenses on other coin operated machines, see Chapter 16, Coin Operated Machines.

District which is defined as the area bounded by the River, Esplanade Avenue, Claiborne Avenue and Howard Avenue, prior to 6:00 p.m. on weekdays, except Mardi Gras Day. On weekends and on Mardi Gras Day when there is more than one parade on any calendar day the vendor must move two (2) hours after the end of the last parade for that calendar day.

4. "Vehicle" is defined as a conveyance which is licensed by the Motor Vehicle Division of the Louisiana State Department of Safety.

B. To sell the following items on city streets along the designated "parade route" during Mardi Gras Season:

1. For a fixed location:

(a) To Sell

(1) Sandwiches, cooked foods and drinks (other than alcoholic beverages) $50.00
(2) Candy, nuts and confections ... 50.00
(3) Novelties 50.00

(b) There shall be a $50.00 deposit on each permit to guarantee payment of sales tax at the end of the Mardi Gras Season. This deposit will be forfeited thirty (30) days after Mardi Gras if taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales tax and use tax in accordance with Chapter 56 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(c) A specific location can be assigned but not guaranteed by the City.

(d) Vendors at fixed locations on public streets, may set up their vehicles during "parade time" only.

(e) When the use of a fixed location would interfere with a parade along a particular route or interfere with public safety, the

City shall have the option to deny the use of such location for such period of time as may be necessary.

(f) Vendors selling from fixed locations shall comply with all provisions of Chapter 38 of Ordinance #828, M.C.S., Code of the City of New Orleans, relative to traffic regulations, especially, but not exclusively with regard to distances from fire hydrants and intersections.

(g) The trailer, van and any appendant thereto from which a vendor sells shall not exceed thirty (30) feet in length or nine (9) feet in width. Vendors must sell and display from a "vehicle"; no stands, card tables or the like shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral grounds or rights-of-way for the sale or display of goods.

(h) All vendors selling from fixed locations shall have the Mayoralty Permit as provided for in this section publicly displayed at his place of business and failure to do so shall constitute a violation of this chapter.

(i) No Mardi Gras Mayoralty Permits shall be issued for vendors from fixed locations on public streets, sidewalks, alleys, parks or squares in the Vieux Carre as defined in Section 65-6 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(j) All applicants for Mardi Gras Mayoralty Permits to sell food and/or drinks on public or private property must show proof of compliance with all regulations and requirements of the City Board of Health and the Department of Fire, Fire Prevention Bureau before permit can be issued.

2. For Moving Locations:

(a) To Sell

(1) Sandwiches, cooked foods and drinks (other than alcoholic beverages) _____ $25.00

(2) Candy, nuts and confections ___ 50.00
(3) Novelties _____ 50.00

(b) There shall be a $25.00 deposit on each permit to guarantee payment of sales tax as provided in Section 56-41, of Ordinance #828, M.C.S., Code of the City of New Orleans, at the end of the Mardi Gras Season. This deposit will be forfeited 30 days after Mardi Gras, if taxpayer has not filed his sales tax return. This provision shall not restrict the authority of the Director of Finance to assess and collect sales and use tax in accordance with Chapter 56 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(c) All moving vendors must keep moving except when making a sale. No stands, card tables or the like, except hand-carried displays shall be allowed on public streets, sidewalks, alleys, parks, squares, neutral grounds or rights-of-way for the sale or display of goods.

(d) For each permit issued one (1) Mardi Gras Mayoralty Badge with a corresponding number shall be purchased by the permittee from the Department of Finance, which badge must be publicly displayed on their person at all times and failure to do so shall constitute a violation of this Chapter.

(e) Mardi Gras Mayoralty Permits for moving locations shall be invalid in the Vieux Carre as defined in Section 65-6 of Ordinance #828, M.C.S., Code of the City of New Orleans.

(f) Mardi Gras Mayoralty Permits for moving locations shall only be valid during "parade time" along designated "parade routes".

(2) To sell novelties on the city streets other than during the Mardi Gras season.
Per sales outlet, for one year ..... $ 25.00

(3) To sell candies, nuts and confections on foot or from push carts or other vehicles on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year ..... $ 25.00

(4) To sell ice cream, ice cream bars and related confections from push carts or other vehicles on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year ..... $ 25.00

(5) To sell hot tamales and/or hot dogs on foot or from push carts on city streets or public places other than during the Mardi Gras season.
Per sales outlet, per year ..... $ 25.00

(6) To peddle cooked food, cakes, pies, etc., other than during the Mardi Gras season.
Per sales outlet, per year ..... $ 50.00

(7) To sell fruits and vegetables on foot or from push carts on city streets or public places.
Per sales outlet, per year ..... $ 25.00

(8) To sell fruits and vegetables from animal-drawn or motor propelled vehicles.
Per vehicle, per year ..... $ 50.00

(9) To sell home-manufactured articles or home-grown products on foot.
Per year ..... $ 25.00

(10) To paint, exhibit or sell paintings and/or portraits or to exhibit or sell works of art on public property in immediate vicinity of Jackson Square.
Per year ..... $ 40.00

(11) To sell razor blades, toilet articles, pencils, shoe laces, etc., on city streets or public places.
Per year ..... $ 15.00

(12) To sell tickets to supper to be held in private homes.
Per event ..... $ 15.00

(13) Demonstrations of food products or devices in public places or markets, etc.
Per engagement ..... $ 25.00

(14) To distribute samples, canvass on city streets or from house to house.
(a) For crew manager, per year ..... $ 25.00
(b) For each crew member, per year 15.00

(15) To advertise with music, on truck or on foot or in costume or for any other advertising stunt on public property.
(a) Per year $100.00
(b) Per month 15.00

(16) To take and sell photographs on the city streets or other public places where the parties photographed willingly pose for the picture and the picture is developed on the spot where taken and there delivered to the parties photographed.
Per year ..... $ 25.00

(17) To take and sell photographs on city streets or in any other public places in any other manner than that described in the preceding paragraph.
Per year $250.00

(18) To operate a hand organ in the city streets.
Per year ..... $ 15.00

(19) To conduct a sale of goods, wares or merchandise in issuance, bankruptcy, mortgage, insolvent assignees, receivers, trustees removal or closing out sale or sale of goods, wares and merchandise damaged by fire or otherwise in accordance with Section 51:31 to 51:41 of the Revised Statutes of Louisiana.
Per sale ..... $ 25.00

(20) Weighing devices, etc. on sidewalks or in public places.
Per nickel machine, per year ..... $ 25.00
Per penny machine, per year 15.00

(21) Exhibitions, expositions, etc., educational or otherwise, when admission is charged or offerings solicited or accepted.
Per month ..... $ 25.00

(22) For a circus, a carnival or any other activity wherein mechanical devices for amusement other than coin-operated are used on a temporary basis.
Per year in addition to license ——— $100.00

(23) To operate games of sport or skill when admission is charged or a fee collected in any manner, including putt-putt games, shooting galleries, archery, etc.
Per year ——— $100.00

(24) To conduct sport events when admission is charged or a fee collected in any manner and when an annual license is not paid to the city:
(a) Admission not more than 75¢ per event — $ 15.00
(b) Admission more than 75¢ per event ——— 25.00

(25) For amateur and professional prizefights or boxing and wrestling contests:
(a) Admission not more than 75¢ per event — $ 15.00
(b) Admission more than 75¢ per event ——— 25.00

(26) For entertainment (other than fairs given by a church for the benefit of the church or by a school for the benefit of the school) dance reviews, plays, festivals, bazaars, etc., with or without music, when admission is charged or when no admission is charged, but subscription fees or contributions are collected.
(a) Admission not more than 75¢ or by invitation
Per event ——— $ 15.00
(b) Admission more than 75¢ per event ——— 25.00

(27) For Carnival Balls ——— $ 25.00

(28) For philharmonic or symphonic recitals, operas or other entertainments of like nature when admission is charged or a fee or subscription is collected in any manner.
(a) Admission not more than 75¢ or by invitation
Per event ——— $ 15.00
(b) Admission more than 75¢ ——— 25.00

(29) For orchestras in restaurants or business establishments for purposes of entertainment or dancing when no admission is charged.
Per year ——— $ 50.00

(30) For music other than an orchestra for entertainment purposes or dancing when no admission is charged or fee exacted.
Per year ——— $ 25.00

(31) For music for entertainment purposes or dancing where admission is charged or fee exacted in any manner.
Per year ——— $ 100.00

(32) For dancing when admission is charged:
(a) Admission not more than 75¢ per event ——— $ 15.00
(b) Admission not more than $1.99 per event ——— $ 25.00
(c) Admission $2.00 or more per event $ 50.00

(33) For a private dance in a public hall.
Per event ——— $ 15.00

(34) To give a rummage sale.
Per event ——— $ 15.00

(35) For any transient vendor, canvasser, solicitor or merchant engaged in the sale at retail of goods, wares and merchandise and who, for the purpose of carrying on such business hires, leases, or occupies, either in whole or in part, a room, or some other temporary quarter a structure for the exhibition and sale of such goods, wares and merchandise and with the intention to close out or discontinue such business within a period of one year from the date of commencement thereof.
Per location, per year ——— $ 250.00

(36) To sell flowers on the city sidewalks or streets.
Per sales outlet, per year ——— $ 50.00

(37)—(40) Reserved.

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(41) For the purpose of operating a retail business establishment exhibiting and selling to the public books, magazines, periodicals and other publications or paraphernalia which feature nudity, simulate natural or unnatural sex acts or otherwise appeal to sexually prurient interests and which establishments cater exclusively to adults $10,000.00

(C.C.S., Ord. No. 15,510, § 1; C.C.S., Ord. No. 17,633, § 1: C.C.S., Ord. No. 17,989, § 3; M.C.S., Ord. No. 3027, § 1. 3-4-65; M.C.S., Ord. No. 4346, § 1, 7-16-70; M.C.S., Ord. No. 4359, § 1, 8-6-70; M.C.S., Ord. No. 4360, § 1, 8-6-70; M.C.S., Ord. No. 4439, § 2, 12-18-70; M.C.S., Ord. No. 4555, §§ 1—5, 5-13-71; M.C.S., Ord. No. 4744, §§ 1, 2, 12-8-71; M.C.S., Ord. No. 5085, § 1, 2-15-73; M.C.S., Ord. No. 5086, § 1, 2-15-73.)

Section 46-1.1. Permits valid in the central business district.

Permits designated by the following subsection of Section 46-1: Subsections (1), (10), (12), (19), (21), (24), through and including (36), are valid within that area of the Central Business District bounded by the River on the East, Claiborne Avenue on the West, Esplanade Avenue on the North and Howard Avenue on the South. Vendors who have continuously operated the same business within that area under the authority of this chapter for eight (8) or more years prior to January 1, 1972 may obtain a valid permit to operate such business within that area. (M.C.S., Ord. No. 4744, § 3, 12-8-71; M.C.S., Ord. No. 4822, § 1, 4-13-72; M.C.S., Ord. No. 4957, § 1, 9-21-72; M.C.S., Ord. No. 5087, § 1, 2-15-73.)

Section 46-2. Additional twenty-five cents charges for Police Pension Fund.

In addition to the charges shown in the schedule in Section 46-1, each applicant shall be required to pay the sum of twenty-five cents for the account of the Police Pension Fund, which additional sum shall be transmitted by the Collector of Revenue, day by day, as collected by him, to the Chief of Bureau of the Treasury. At the end of each month the Chief of Bureau of the Treasury shall remit all such sums so collected for account of the Police Pension Fund to the Board of Trustees, Police Pension Fund, City of New Orleans. (M.C.S., Ord. No. 217, § 1.)